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**FOREIGN POLICY IMPLICATIONS OF THE NORTH  
AMERICAN FREE TRADE AGREEMENT (NAFTA)  
AND LEGISLATIVE REQUIREMENTS FOR THE  
SIDE AGREEMENTS**

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Y 4. F 76/2: S. HRG. 103-360

Foreign Policy Implications of the...

**HEARING**

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

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OCTOBER 27, 1993

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Printed for the use of the Committee on Foreign Relations



SENATE COMMITTEE  
ON FOREIGN RELATIONS

U.S. GOVERNMENT PRINTING OFFICE

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# **FOREIGN POLICY IMPLICATIONS OF THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) AND LEGISLATIVE REQUIREMENTS FOR THE SIDE AGREEMENTS**

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**WEDNESDAY, OCTOBER 27, 1993**

**U.S. SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.***

The committee met, pursuant to notice, at 8:30 a.m. in room SD-415, Dirksen Senate Office Building, Hon. Christopher J. Dodd, presiding.

Present: Senators Dodd, Pell, Mathews, Lugar, Kassebaum, Murkowski, and Coverdell.

Senator DODD. The committee will come to order.

I thank all of you for getting up at a very early hour to have a hearing. But, as all of you know, we have got some conflicting scheduling today, and I thought this would probably be the best way to handle this; rather than to start something later in the morning and then have it interrupted throughout the day.

I am grateful to our witnesses, and deeply grateful to my chairman, Senator Pell of Rhode Island, for offering me the opportunity to chair these hearings; and I am thankful to him for being here with us this morning.

I would like to take a couple of minutes now for brief opening comments, turn to my colleagues for any opening comments they may have, and then we will get to our witnesses immediately thereafter, if we can.

This morning the Committee on Foreign Relations is conducting a hearing on the North American Free Trade Agreement and related matters in preparation for the committee's consideration of the NAFTA implementing legislation that falls within our jurisdiction.

We are very fortunate to have with us this morning several high level representatives from the Clinton administration, as well as representatives of organized labor and nongovernmental environmental organizations.

Before we hear from our first panel of administration witnesses, I would like to make a few remarks about the NAFTA agreement.

As many of you may know, on October 7, I delivered a speech on the floor of the U.S. Senate, in which I announced my support for the NAFTA agreement. I did so because I had come to the conclusion that on balance NAFTA represents a good deal for the working people of my State, and for the future job base of this country. I tried to use the opportunity of that announcement to articulate my

reasons for supporting NAFTA, and the reasons why I believe that my colleagues in the House should do the same.

First, the truth is that trade with Mexico already creates jobs, both in my State and across this Nation. Even without NAFTA, Mexico has already become a strong and growing market for U.S. products and services.

Few people may know that the United States currently enjoys a trade surplus with Mexico of \$5.4 billion, despite the fact that the average Mexican tariff on American products is 2½ times the average American tariff on Mexican products. Even with that, we are enjoying a rather remarkable surplus.

Let me mention my own State: Connecticut exported to Mexico a total of \$280 million in 1992, rising 140 percent since 1987 alone. These exports support almost 8,000 jobs in my State.

Second, by reducing the current restrictions on exports to Mexico, NAFTA will create additional jobs, in my view, in the United States; a conclusion borne out, I might add, by a majority of all of the independent studies done on this agreement.

What's more, NAFTA is only the first step toward the eventual creation of a hemispherewide trading bloc, encompassing all of North and South America. The creation of this unified trade bloc, the largest of its kind in the world, will provide American exporters with vast potential markets for their goods and services. It will also serve as an important hedge against the European Community, or East Asia and the Pacific Rim, should these regions turn inward, and erect barriers to imports.

Third, I support NAFTA because I believe the current document goes a long way toward addressing many of the concerns that have previously been expressed about this agreement; particularly, when it comes to environmental and labor standards.

For the first time ever in the history of this country, a commission on labor cooperation and a commission on environmental cooperation will be established under a trade agreement to ensure that labor and environmental laws are being adequately implemented. These commissions will not be paper tigers; they will have the power to enforce the laws through the direct imposition of fines and trade sanctions, which is absolutely revolutionary, in the history of this country.

I know many Americans are concerned about the possibility that NAFTA will encourage companies to lay off American workers and seek cheap labor in Mexico. This concern is understandable, and it is one that must not be ignored. However, it is important to note that wages are not the only factor that businesses use in deciding where to locate. Worker productivity, infrastructure, and access to technology are equally important, if not more so in this, the latter part of the 20th century.

In addition, there are few barriers that stop a company from moving to Mexico today, with or without NAFTA. What NAFTA will do is make it easier for many companies to remain in the United States, by reducing the barriers for their exports to Mexico.

Even with these factors, there is doubt that certain sectors of the American industry will fare less well than others, under the increased competition brought on by NAFTA. For these workers who lose their jobs as a result, the Federal Government, in my view,

should be willing to provide an effective program of job retraining assistance, in order to help these workers prepare for the future.

These job retraining initiatives should go hand in hand with other important domestic initiatives, including significant investments in the areas of education, infrastructure, and development of new technologies.

Many have characterized the debate over NAFTA as one that pits big American corporations against the people who work for them; 20 or 30 years ago, this interpretation might have been accurate. However, as communications and transportation become increasingly effortless, and new markets emerge in nearly every corner of the globe, this picture has very rapidly changed.

Today, the dynamics of global competition are reaching into every home and every workplace. Businesses, large and small, are taking advantage of the opportunities presented by the international economy. These dramatic and unprecedented changes affect us all, employer and employee alike.

The debate over NAFTA, therefore, is not about whether the United States can afford to compete with Mexico, the question is whether, given the remarkable changes that have occurred in the world, we can afford not to.

Let me say in conclusion that, as I see it, the task ahead over the next few weeks is to convince those who may still be uncertain about NAFTA of this fact. I do not underestimate the difficulty of the task ahead, for the President or for those of us who are committed to helping him win passage of this historic agreement. The task is formidable, but within our grasp.

I believe that, in the end, the U.S. Congress will support U.S. participation in NAFTA as the best option for guaranteeing a prosperous future for the people of my state, and for the people of the entire country and this hemisphere.

With that, Mr. Chairman, I will turn to you, if Paul does not mind, just quickly, for any opening comments you may have.

The CHAIRMAN. Thank you very much, indeed. And I thank you, Senator Dodd, for holding this timely, important hearing. I would ask you to excuse me, as I have to go up to a hearing in the Government Affairs Committee, but I will try to come back.

I have always believed in free trade, but I must say that I have some concerns regarding this agreement, especially as it relates to Mexico's record on human rights and Democratic reform. I look forward to hearing from the witnesses and ask them to excuse me, too. I hope to be back, and will look at their testimony if I am not here. Thank you very much.

Senator DODD. Thank you very much, Mr. Chairman. Senator Coverdell.

Senator COVERDELL. Mr. Chairman, I want to proceed with the testimony of the panel as soon as possible. I will simply say, I welcome them. This is a historic exercise that we are about. I am looking forward to the testimony.

I am one of those individuals that comes from a battleground State and region, where there is extensive controversy regarding the treaty. And so I do look forward to the opportunity to hear this debate, and to hear from the distinguished panelists we have assembled. And I did enjoy the opening statement, Mr. Chairman.

Senator DODD. Senator Mathews.

Senator MATHEWS. Thank you, Mr. Chairman. I, too, am a supporter of NAFTA. I expressed my support for it some time before.

I want to compliment you on an outstanding opening statement, because I think you recognized that NAFTA is the beginning of a new type of battle that we are going to be fighting in this country.

In recent years, we have seen some things happen that have changed the entire nature of this world. We have seen the Berlin Wall come down. We have seen the Soviet bloc evaporate. We have seen our neighbor to the south, Cuba, all at once begin to have severe problems with the withdrawal of aid from other areas. We see troubles in a new democracy trying to form in Haiti.

There are all sorts of fronts out here, and I think in the future, instead of our fighting the wars with guns and nuclear weapons, we are going to be fighting trade battles. And I have the privilege in working with you and this committee in this area. I would like to play a part of seeing NAFTA drop on in and through Central and South America, and bring those nations to the table.

I think with APEC and the 15 member nations there is another frontier that we will be looking at and fighting battles on. There is an emerging affluence, so to speak, that is taking place in the Asian nations, in the three Chinas, and other areas. I think we are on the verge of some outstanding developments and challenges; that we have got to step forward, that we have got to ratify this treaty, and then we have got to move on, because there are other frontiers out there for us to work on. Thank you, Mr. Chairman.

Senator DODD. Thank you very much.

Senator COVERDELL. Mr. Chairman, I have just been notified that I have to make a brief statement on the floor. So I am going to step over and make that, and then I will return.

Senator DODD. Very good. We will welcome you back. Senator Kassebaum, do you have an opening comments you would like to make, before we turn to our witnesses?

Senator KASSEBAUM. Mr. Chairman, no, and I apologize for getting here late, but I understand you gave a very strong opening statement in support of the North American Free Trade Agreement, and I will just second whatever you said; and I am looking forward to hearing the witnesses.

Senator DODD. I wish you would do that all the time. [Laughter.]

Thank you very much. Our witnesses, let me start with Cliff Wharton, who is our Deputy Secretary of State for the Department of State, a good friend and extremely knowledgeable. Let me commend you for your work you have done in Central America, as well. Having been down there recently, I know of your efforts in that regard.

Secretary Wharton is joined by the Honorable Jeffrey Shafer, the Assistant Secretary for International Affairs, the Department of the Treasury; and to his right is the Honorable Rufus Yerxa, the Deputy Trade Representative of the Office of the U.S. Trade Representative. We want to thank all three of you—excuse me, I did that wrong, I apologize.

Cliff, we will begin with you, if we can. Any supporting data or information you want for the record, and I will say it for you and say it for all of our witnesses: Anything you want to be included

in your testimony, or any of our witnesses, will be added to the record.

If you could, I would like to get to the heart of testimony so it does not go on too long. I will not turn on the clock here, but sort of be conscious of time, so we can get to some questions.

**STATEMENT OF CLIFTON R. WHARTON, JR., DEPUTY  
SECRETARY OF STATE, U.S. DEPARTMENT OF STATE**

Mr. WHARTON. Thank you very much, Mr. Chairman, and members of the subcommittee. You have asked me today particularly to concentrate on the implications of NAFTA for U.S. foreign policy and Latin America, and I am very delighted to do so.

I do have a prepared statement, and I will not read all of it, but hit some of the highlights in there.

One of the things that occurred to me as I was preparing for this, naturally was to reflect upon the very first time that I encountered issues of trade in Latin America. And I made the observation that the very first issue that I ever dealt with was to write an honors thesis, undergraduate thesis, which dealt with aftosa, which is the hoof and mouth disease, and the impact that that had on U.S.-Argentine relations in trade, with regard to meat.

And it is still a problem. And subsequently, many years later, I was involved in a program of development assistance in Brazil; and I can recall very vividly the frequency with which the Brazilians would always talk to me about the crucial importance of trade as an important supplement, and a complement, to aid programs and assistance programs.

And so now I find myself in the position today where, having been both a student of it and a practitioner, now I am in the position of being a policymaker, and I thought that that background sort of gave me an opportunity to reflect a little bit.

What I have done, in my particular presentation for the committee, is to look at the two possible scenarios that might develop with regard to NAFTA. One is a scenario of what might happen if, in fact, NAFTA is approved; and the other is what would happen if it were not approved.

I think one of the most important and crucial elements in this is to recognize that, throughout Latin America and the Caribbean, they are very anxious to forge even stronger relations with the United States. When one looks at the leadership in the region—whether it is in the Caribbean, and the CARICOM leaders; or the others in Latin America, President Aylwyn and the others; and the 13 nations in the Rio group—they have all come out foursquare, very strongly, supporters of NAFTA.

And the reason, I think, is most important; and that is that all of these nations have recognized a critical importance and relationship between their efforts at democratization, at reform, and the importance of having a strong economy, which it must necessarily must be based upon trade and trade access.

And so, when you have nations which are going through this process of Democratic transition throughout the region, actions which we take with regard to NAFTA are going to be viewed very, very critically in the Latin American scene and in the Caribbean, as to whether or not we in the United States are prepared to open

up our trade, our economies, to trade with those nations. And it is going to be seen as whether we are, or are not, prepared to step up and do so.

One of the things which I think is also particularly important to emphasize is the fact that the relationships which we have had, as all of you know, with the nations in the Latin American region, have not always been ones in which we have had a partnership relationship. They frequently have been seen by the Latin American nations as though we have had a superpower, superordinative status. We have been looked to as the collosus of the north.

And for the very first time, what is happening is we are saying to them, with NAFTA: "We are prepared to deal with you as partners, in terms of broadening the market that is available, and strengthening your particular economies."

It is very important to emphasize that NAFTA is not an exclusionary bloc, but the potential that it represents for opening markets in this hemisphere is absolutely incredible. And it also will have, I think, some very significant spilloff, with regard to linking the markets or the technologies and the skills and the resources of the region.

Let me just say a word about what might happen if, in fact, NAFTA does not pass. For years, we in the United States—and I think this is very important—have preached to the Latin American nations and to the Caribbean nations that we want a relationship based on trade, not aid. And now, part of this slogan is coming true.

But I need not remind any of you that this fiscal year and the next, we are going to see some very dramatic declines in U.S. foreign assistance overall, and especially in Latin America and the Caribbean.

Now, if we retreat from this broader vision of hemispheric trade and a hemispheric trade community, of which NAFTA is the very, very first step, the United States would then be saying to those nations that, "We cannot give you aid," and that, "We will not accept your trade." After all these years of having said to them, "Trade, not aid," at the time when we are reducing the aid, we are saying, "No, we are not going to engage in opening up, with regard to trade."

So that, when one looks at the Latin American scene, and in the Caribbean, where you have civilian-elected governments which are under siege, they are trying to engage in significant reform of their economic and their political systems, and trying at the same time to satisfy the demands of their populations for a better future, it seems to me that we simply must engage in a meaningful form of engagement, in opening up our markets.

One of the things that I think also is involved is that a failure to pass NAFTA would send an absolutely devastating message more broadly. It would be a message with regard to bad faith, a collapsing of our political will with regard to our closest neighbors; and it would also give vindication, if not aid and comfort, to those Latin Americans who argue and have argued that the United States wants to maintain Latin America and the Caribbean in a subordinate status, dependent upon us as a superpower which is really not concerned with their well-being.

And this is why I very much agree with what President Carter said, and I would like to quote his statement, which says that: "The single most important factor that will promote democracy and honest elections to our next-door neighbors, is to have NAFTA approved and implemented." And I could not agree more.

I also would like to point out that I think that, in the broader global sense, a defeat for NAFTA would call into question our Nation's commitment and capacity to lead. It would put us in a position of being unable to implement a vision which we share with six living Presidents; and I think it would handicap us in competitiveness, by curtailing regional economic ties, just at the moment when our competitors are intensifying theirs.

And, and, it would signal a retreat from the basic principles of free trade that we have extolled to others. And so, I think it would damage our trade negotiating credibility around the globe.

In conclusion, Mr. Chairman, let me just point out that I believe very firmly that NAFTA is the cornerstone for building effective co-operation between the United States and Latin America. It is a crucial test, a test of U.S. interest and our willingness to forge long-term constructive ties with Latin America.

And last, the congressional decision will, indeed, define the future U.S. foreign policy in the Americas, and the nature of the U.S. leadership in the hemisphere. Thank you.

[The prepared statement of Mr. Wharton follows:]

#### PREPARED STATEMENT OF MR. WHARTON

Mr. Chairman, members of the subcommittee, it is a pleasure to be here today to share with you the Administration's views on how NAFTA supports and advances U.S. foreign policy objectives in Latin America and in the world.

Forty-five years ago, when I initially began to specialize in Latin America, I wrote an undergraduate honors thesis on the impact of "aftosa"—hoof and mouth disease—on United States/Argentine relations. In so doing, I became sensitized to the impact of trade barriers on the conduct of U.S. foreign policy.

Ten years later, while I was engaged in a program of development assistance in Brazil, I saw firsthand the impact of technical assistance and aid on Brazil. I can recall vividly the frequent pleas of the Brazilians on the importance of trade as a vital supplement, and logical extension, of assistance.

First as a student, then as a practitioner, now as a policymaker I continue to be confronted, and impressed, with this same lesson that we keep on learning. Trade and aid vitally affect our foreign policy. Now the issue is before us more forcefully than ever in the form of the North American Free Trade Agreement, and I am, therefore, delighted to speak specifically today on NAFTA's impact on U.S. foreign policy in the Americas.

#### NAFTA AS A KEY ELEMENT OF U.S. FOREIGN POLICY

Mr. Chairman, members of the subcommittee, the United States faces a historic choice in the debate over passage of the NAFTA: will the United States continue to play the leadership role which it assumed at the end of the Second World War or will it withdraw from the challenges of the next century?

Approval of NAFTA presents our nation a new opportunity to build a free trade community in the hemisphere and closer relations with our neighbors than ever before. Rejection of NAFTA would set back our relations at least a generation, reduce or perhaps close our fastest growing export market, and make more fragile the new market-oriented democracies that have begun to take hold in the hemisphere.

Successful passage of NAFTA is a key element of U.S. foreign policy. If passage succeeds, we would strengthen our domestic economy, solidify our relations with our neighbors to the North and South, and demonstrate our capacity for world leadership. If passage of NAFTA fails, we would face a more difficult future here at home, throughout the region, and in our relations with the rest of the world.

I would like to address in turn both the positive implications of the passage of NAFTA, and the dilemmas the failure to pass NAFTA would present to our nation's foreign policy.

#### IF NAFTA SUCCEEDS

##### *The Impact on Our Domestic Economy*

Mr. Chairman, under NAFTA, Canada, the United States, and Mexico will form the world's largest trading group. NAFTA's market size and combined productive capacity will give us a new competitive edge in the global economy. Already Canada and the U.S. are the world's largest trading partners, with goods and services totaling about \$215 billion. Since the U.S.-Canada Free Trade Agreement of 1989, tariffs were lowered on both sides. As is the case with Mexico, Canadian tariffs were higher than ours to begin with, so the U.S. gained important access to our largest export market, increasing exports by \$12 billion in the first four years.

Since Mexico's decision in the late 1980s to turn away from import substitution industrialization toward export-led growth and more open markets, the United States has exported over \$28 billion in new exports to Mexico—exports which supported some 426,000 new jobs in our economy. As NAFTA takes hold, other countries will open their markets in hopes of joining NAFTA, and competitors from outside the hemisphere will invest to gain market access.

My prepared remarks contain important statistics about the success of our trade with Canada and Mexico and its effect on American jobs and our economy. They are success stories that are being cited frequently, and rightfully so, but I will not repeat them now. Rather, I want to concentrate on NAFTA's impact on our relations with Latin America and the Caribbean, and its ultimate global implications for us.

The statistics do tell an impressive success story for American businesses and workers, but I also believe that it is important not to overdraw the significance of the Mexican economy for the United States. Indeed, I often wonder how it is that an economy one-eighteenth the size of that of the United States, an economy roughly the size of Los Angeles County, is seen as such a threat to our welfare by the opponents of NAFTA.

Preserving U.S. access to the Mexican market is part of the cure to what ails the U.S. economy. But the real significance of the passage of NAFTA for our economic future is the forward-looking, outward-oriented trade policy it symbolizes.

##### *The Positive Impact on Our Relations With Latin America and the Caribbean*

The vision held out for the peoples of the Americas by NAFTA is one of which we should be proud: a community of nations, committed to the defense of democracy and human rights, bound together and mutually enriched by open trade and rising standards of living, and dedicated to the peaceful resolution of disputes.

As a student of the politics of this hemisphere Mr. Chairman, you know that much of Latin America and the Caribbean sees the United States as the "colossus of the North." Mexico long lamented that it was "so far from God, and so near the United States." Yet the leaders of today's Mexico have put aside this historic mistrust to seek a partnership based on mutual respect and shared opportunity.

Leaders throughout Latin America and the Caribbean want to forge a similar relationship with the United States. Earlier this month, the leaders of the Caribbean Community (CARICOM)—small, vulnerable economies likely to face increased competition with Mexico for investment—nevertheless endorsed NAFTA's passage. On October 18, Chilean President Aylwyn wrote President Clinton on behalf of the 13-nation Rio Group to offer their support for NAFTA and to express interest in its extension to their own economies.

Latin America was the first of the world's less developed regions to embrace democratic values and market-oriented policies as likely to secure their brightest future. Democratic transitions are now nearly complete throughout the region. Passage of NAFTA would vindicate democratic leaders from Argentina to Venezuela who have opened up their economies to U.S. trade and investment, and confirm that cooperation with the United States pays concrete dividends.

In Mexico, NAFTA's passage would reinforce Mexico's commitment to economic reform and strengthen modernizing elements in Mexico's political system. Cooperation along a wide range of troublesome issues from illegal drug trafficking to protection of the environment would be enhanced.

By helping Mexico achieve sustained, robust economic growth, NAFTA is an effective tool for helping to reduce illegal immigration.

##### *The Impact on Our Global Involvement*

Put simply, NAFTA improves our ability to meet economic challenges from Japan, Europe, and a changing global economy. International trade is the future of the

American economy. Its health depends increasingly on our ability to gain access to other markets.

NAFTA solidifies U.S. access to the Mexican market, one of our country's most important and fastest growing. It would generate jobs that will improve the skills of U.S. workers and businesses for international competition.

Together with our partners, Mexico and Canada, the United States would enjoy the benefits conferred by this powerful new linkage of markets, skills, technologies, and resources. The result would be a U.S. economy that is more efficient and competitive worldwide.

Mr. Chairman, President Clinton has charged Secretary Christopher and me with the task of representing the best interests of the United States internationally. I know that passage of NAFTA will have a dramatic impact on our international standing. It will give new weight and vitality to U.S. policies around the world, attracting greater respect in Europe and Asia for the President's authority and our capacity as a government to get things done.

NAFTA is not an exclusionary bloc, but its potential for opening markets in this hemisphere would improve our negotiating position in the GATT Uruguay round and help bring this global negotiation to a more successful conclusion.

Success on NAFTA would establish the United States as the leader of a worldwide movement toward economic liberalization, strengthening the side of openness and international engagement in such critical countries as Russia, China, Brazil, and India. Receptivity to U.S. foreign policy across the globe would increase, contributing to a positive psychology of cooperation in a post-Cold War world struggling to define new patterns of nation-state behavior for the next century.

#### IF NAFTA FAILS

##### *Reduced Domestic Opportunity*

Mr. Chairman, the positive results for the U.S. economy of its relations with Mexico over the last five years with which I began my remarks are largely the result of unilateral decisions taken by Mexico to lower its tariffs and reorient its economy. Mexico took these decisions because of the vision of two forward-looking Mexican Presidents, Miguel de la Madrid and Carlos Salinas de Gortari, who sought an end to profound economic and political crises in Mexico that ended forty years of dramatic economic growth and even threatened political stability.

I cannot predict with precision Mexico's reaction to rejection of NAFTA by the Congress, but it is conceivable that new leaders in Mexico would define Mexico's interests differently, closing off Mexican markets to the United States and seeking to limit rather than expand areas of cooperation with us. These were the policies pursued by most previous Mexican Presidents, and they could return.

##### *Forfeiting a New Relationship With Latin America and the Caribbean*

As I stressed at the beginning of my remarks, Mexico is a gateway to the Caribbean Basin and the rest of Latin America, and NAFTA is the key to unlocking the door of expanded trade and strengthened political relations with our neighbors. If Mexican economic reform is not derailed by defeat of NAFTA, it would almost certainly be slowed. If the Mexican economy falters, we would feel the effects just as we did during the 1982 debt crisis. During that period of 1981-83, our exports dropped by half—from \$18 billion to \$9 billion. A similar decline today would reduce U.S. exports by \$20 billion.

For years, the United States has preached to Latin America and the Caribbean that we want a relationship based on trade, not aid. Part of this slogan is already coming true: this fiscal year and next will see dramatic declines in U.S. foreign assistance overall and, especially, for Latin America and the Caribbean. Were we to retreat from the vision of a hemispheric trade community of which NAFTA is the first step, the United States would be saying that we cannot give aid and that we will not accept trade.

Throughout Latin America and the Caribbean, civilian, elected governments are under siege, seeking to reform their economic and political systems and satisfy the demands of their populations for a better future. We have held out to them a future in which the old conflicts of ideology will be replaced by new battles to secure the improved living conditions of our peoples and theirs. A defeat of NAFTA would send a devastating message of bad faith and collapsing political will to our closest neighbors. It would vindicate those Latin Americans who argue that the United States seeks to maintain Latin America and the Caribbean in a subordinate status, dependent on a superpower unconcerned with the welfare of the region.

That is why I agree very much with President Carter, who said, "the single most important factor that will promote democracy and honest elections to our next-door

neighbor is to have NAFTA approved and implemented. If this is done, then I believe that we will have rich dividends for our own country."

#### CONCLUSION

Finally, Mr. Chairman, and members of the committee, we know we do not want to repeat those earlier times of retreat from our global responsibilities.

NAFTA's defeat would call into question this nation's commitment and capacity to lead. It would place us in the position of being unable to implement a vision shared by all six living Presidents. It would handicap U.S. competitiveness by curtailing regional economic ties just when our competitors are intensifying theirs. It would signal a U.S. retreat from basic principles of free trade we have extolled to others. This would damage our trade negotiating credibility around the world.

We must prepare for the challenges of the next century, and they lie in the direction of NAFTA. It offers us an opportunity to develop far closer ties with our long-standing allies, our American allies. It does not call for aid—just trade.

We are determined that NAFTA will succeed. And I am here today to ask for your help, Mr. Chairman, and that of other Senators in achieving this important U.S. foreign policy objective.

Thank you.

#### ADDENDA

Since 1986, when Mexico joined the GATT and began cutting tariffs from a maximum of 100 percent to about 20 percent, the United States has been a direct beneficiary.

- U.S. exports to Mexico have more than tripled, from \$12.4 billion in 1986 to \$40.6 billion in 1992.
- Our bilateral trade balance has swung from a deficit of \$5.7 billion in 1987 to a surplus of \$2.1 billion in 1991. The 1992 surplus of \$5.4 billion represents a 22 percent increase over 1991.
- Merchandise exports have increased by 228 percent to \$40.6 billion in 1992, 2.3 times faster than U.S. exports to the rest of the world.
- Mexico is our second largest market (after Canada) for U.S. manufactured exports (\$34.5 billion in 1992).
- It is our third largest agricultural export market (after Japan and Canada). Agricultural exports reached \$3.7 billion in 1992, a 242 percent increase since 1986.

This export growth to Mexico is widely distributed regionally throughout the U.S. economy.

- From 1987 to 1992, 48 of the 50 states expanded exports to Mexico. During this same period, 38 states at least doubled exports to Mexico, and, of these 38, 25 more than tripled shipments to Mexico. The top ten beneficiaries of this new Mexican market are Texas, California, Michigan, Illinois, Arizona, New York, Pennsylvania, Louisiana, Ohio, and Florida.

All key U.S. export sectors have experienced dramatic increases in their trade with Mexico: manufactured goods, agricultural products, and consumer goods and services.

In 1992, the Mexican Gross Domestic Product (GDP) was \$329 billion while the U.S. GDP was about \$5.95 trillion. The value of the goods the United States imports each year is close to twice the size of the entire Mexican economy. Imports from Mexico accounted for less than 10 percent of total U.S. imports in 1992.

There is significant U.S. investment in Mexico, but Mexico is not the magnet for U.S. investment that some NAFTA opponents claim. U.S. companies and individuals invested a net total of \$5.4 billion in Mexico in 1992, roughly 10 percent of the net total of \$53.3 billion all of America invested abroad that year.

Senator DODD. Thank you very much. Ambassador Yerxa.

#### STATEMENT OF RUFUS YERXA, DEPUTY TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Ambassador YERXA. Thank you, Mr. Chairman; and thank you for inviting me today to this important hearing. I do not intend to read this statement. We do have a lengthy statement that makes the case from the administration's perspective, for NAFTA.

I must admit, Mr. Chairman, I am not sure that it is as persuasive as your opening statement and I will speak to Ambassador Kantor about that. Maybe we will want to revise it a little bit.

But I would like to summarize some of the administration's major arguments, particularly from the standpoint, not of foreign policy, but of why we believe this is good domestic trade policy. I defer to Deputy Secretary Wharton and the State Department on the foreign policy implications, but let me talk a few minutes about why we believe the NAFTA is a very good model of a trade agreement for the United States, and why it delivers substantial economic benefits to this country, and why we are at a pivotal time in deciding which direction we are going to go in the future of our trade policy and trade agreements with other nations.

I think the first thing to stress is that we are facing a future of global competition. We are facing a future with global markets, global products, and global companies. And we have no choice but to figure out what is the best way for the United States to remain competitive, to be able to produce competitively, and to maintain good jobs and a good standard of living, in the face of global competition. But nothing we can do will change the fact that this global competition is the emerging reality.

I was listening this morning to a program about Korea, Mr. Chairman, and the reporter mentioned that 30 years ago, Korea had a per capita income of \$80. Of course, that is not in present dollars, but in 1963 it had a per capita income of \$80. Today, it is \$6,800.

The fact of the matter is that new competitors are emerging all over the globe; competitors who are able to produce the same kinds of products that have traditionally been produced here. That is true not only in Asia, but in Latin America, as well.

And the question becomes: How can we ensure that we are part of the competition to produce the same products? But also: How can this very, very productive and competitive American economy have markets in the future, in the face of significant trade barriers around the world?

You stressed in your statement the fact that what NAFTA really does, is create the conditions which allow us to compete effectively in Mexico. The reality is that the American market is already an open market today. Yes, we have some barriers; but on the whole, our trade barriers do not affect in substantial proportions the flow of goods or services to the United States.

The problem is that many, many markets remain closed to us. And, although the trend in these countries is toward liberalization—that is, countries such as Mexico have, as a matter of domestic policy, decided that their economic growth can best be encouraged by opening up—there are still substantial barriers remaining. What NAFTA does is create a level playing field and a situation of open competition.

And, if you will look at our record in being able to compete in markets that are truly open to us, it is quite a remarkable record. In fact, many of our largest trade surpluses, Mr. Chairman, are in developing countries with lower wages than the United States; countries where we have been able to obtain greater market access through trade negotiations.

So I want to stress, first of all, that what this agreement essentially does, with very few changes in our trade policy regime, is to open foreign markets and to create the conditions in which we can compete in other countries.

And as a model, whether you look at what it does to the regime for tariffs and trade in goods; or whether you look at the intellectual property improvements in the agreement, which will ensure that U.S. intellectual property rights will be protected in foreign markets; whether you look at the provisions relating to foreign, to financial services and other U.S. service providers; it is an extremely beneficial agreement.

And that is why virtually all the credible economic studies which have looked at this, have concluded that it is of net benefit to U.S. economic growth and U.S. competitiveness, and to U.S. jobs; whether you look at sectors such as automobiles and telecommunications or agriculture or the services sector.

The other point I wanted to stress—because you talked in your opening statement about the future potential of a Western Hemisphere trading arrangement—is simply to say that we believe that these types of agreements, free trade agreements throughout Latin America, present real promise for the future.

But I want to also stress that it should not come at the exclusion of a multilateral trading system, or of open trade with our competitors in Europe and Asia. Because if these trading arrangements, preferential trading arrangements, are compatible and supportive of an international system, I think it helps to build and strengthen that system. If they become exclusionary trading blocs, I think we face some real difficulties.

Senator DODD. Yes, I am not advocating that—the red flag of it is what I wanted to mention.

Ambassador YERXA. No, I understand that. In fact, Mr. Chairman, I think the argument can be made that NAFTA is the right model because it does not create an exclusionary trading system. It is fully compatible with our obligations under GATT and other multilateral arrangements.

Senator DODD. We might even argue that down the road negotiating multilateral trading agreements may be a lot easier, dealing with blocs, rather than with 107 other nations in that.

Ambassador YERXA. Well, certainly, dealing with larger groupings, I fully agree with you. It is a little complicated to try to negotiate a GATT agreement with 107 countries; and this greater integration on a regional basis does present us chances to make that more efficient.

The last point to make, Mr. Chairman, is that we have put a number of things into this agreement which, I think, ought to be stressed in the Congress.

You mentioned the fact that there is a need for recognizing where there are to be some adjustments and dislocations in the U.S. economy; that a job assistance and job training program is extremely important. The administration is proposing such a program as part of NAFTA; and, longer term, believes that a comprehensive retraining program for the U.S. workforce is extremely important.

A comprehensive reemployment program, because the adjustments that are taking place in our economy have something to do

with trade; but they have a great deal to do with all of the changes that are taking place, such as, defense conversion and increased technology.

Just one example: We are producing about 80 percent of the steel we produced at our peak of production in the 1960's, but we are doing it with less than one-fifth the workforce we had in the 1960's.

As you become a more competitive and more efficient producer, you have changes in the workforce related to that production. So, technology, defense conversion, and other factors are dramatically affecting our workforce; and we need a program to deal with that.

The administration is proposing here, Mr. Chairman, a bridge program related to NAFTA. But frankly, the job dislocations directly related to NAFTA are going to be quite small, in comparison to other changes taking place; and we need to look at a more comprehensive approach for the future.

Finally, the safeguards that are built into this agreement, safeguards relating to situations involving injurious imports of goods: There are provisions in the agreement which allow the United States to deal with import surges in those circumstances where an unforeseen surge does occur.

There are also important safeguards of labor and environment, particularly in the supplemental agreements; and I want to just close by echoing what you said in your statement, about the ground-breaking nature of these agreements.

The President, at the time he endorsed the NAFTA, said it was very important to make sure that our economic growth with Mexico did not come at the expense of the environment or workers' rights.

We believe that these supplemental agreements, which fully preserve our sovereignty in these areas—that is, the sovereignty of the United States and of the Congress to devise appropriate protections for labor and environment—but which commit all three Governments to a policy of respect for, and enforcement of, environmental laws and policies; and which creates a new mechanism for cooperation, the Labor and Environment Commissions in North America, which we believe will be extremely important to creating the kind of cooperation among us that is essential in a free trade arrangement.

Mr. Chairman, in closing, the fact of the matter is that there has been a lot of confusion and misrepresentation of what this agreement really does, both economically for the United States, and in terms of the longer term foreign policy implications.

I think this hearing is a very important place to begin to set the record straight, and I look forward to answering your questions about it.

If I could just make one other small point: The NAFTA is not an unprecedented agreement. We have had other experiences with free trade, and with preferential trading arrangements.

I know this committee was involved in the early 1980's, when the Caribbean Basin Initiative [CBI] was adopted; and at that time many of the critics contended that it would lead to massive floods of imports into the United States; that it would lead to passthrough of goods coming from other countries through the Caribbean; and that it would undermine both jobs and economic growth in the United States.

If you look at the actual record of what has happened under CBI, it is very interesting, Mr. Chairman. Actually, we now have a trade surplus with the Caribbean. We have seen some improvement in economic conditions in many of those countries, directly related to that.

And it belies the myth, I think, that economic growth in the United States can only occur if we do not share it with other countries. That is, that by excluding trade from other countries, we can be richer; and that by entering into these kinds of arrangements, we will become poorer. That, to me, is as false as the assumption that economic growth in New York would be bad for Connecticut.

The fact of the matter is that, under this kind of arrangement, we are going to see economic growth in both the United States and Mexico. And that is the most important aspect of this entire debate.

[The prepared statement of Ambassador Yerxa follows:]

#### PREPARED STATEMENT OF AMBASSADOR YERXA

Mr. Chairman, members of the Committee, I am pleased to appear before you today to set forth the Clinton Administration's case for the North American Free Trade Agreement (NAFTA) with the recently negotiated supplemental agreements.

This fall, members of the administration have appeared before Committees in the House and the Senate. We appreciate these opportunities to present the Administration's case on why the approval of NAFTA is central to our national interests.

The question we must ask ourselves as we consider the NAFTA is whether the United states will be significantly better off with the NAFTA and its side agreements than by rejecting them. We believe that the answer to that question is a clear and resounding yes.

The case for NAFTA comes down to two compelling points: NAFTA will increase economic growth and jobs in the United States, and NAFTA will help us resolve problems that trouble Americans in our current relationship with Mexico.

There is a related point that is missed too often by the opponents of this agreement: rejecting the NAFTA and the supplemental agreements will not solve the problems that trouble us. The NAFTA will help us solve these problems in a way that benefits our country and our continent.

#### NAFTA AND OUR TRADING GOALS

Against a background of intense debate, a mountain of misinformation, and considerable hyperbole, it is important to remember that what NAFTA really does is some very simple things which Americans have long sought in our trading relationships. The NAFTA levels a playing field that is now tilted against us. Over time it will eliminate tariffs and non-tariff barriers among the United States, Mexico and Canada. Mexico and Canada will give our products preferential treatment compared to our competitors in Europe and in Asia and end the failed maquiladora programs. In addition NAFTA and its side agreements will address long-neglected environmental and labor issues.

The NAFTA creates the world's largest market: 370 million people and \$6.5 trillion of production. That makes us stronger here at home, and better able to compete with Europe and Asia.

At the same time, NAFTA has strong rules to stop unfair treatment of American products and American investors. It requires Mexico to change laws that have forced our companies to move production to Mexico in order to sell their products in Mexico. It requires protection from piracy of our films, our books and our technology. The supplemental agreements will require stronger enforcement of laws protecting labor and the environment, and will help us work together with Canada and Mexico to improve deficient laws.

#### NAFTA AND THE ADMINISTRATION'S ECONOMIC STRATEGY

The NAFTA package is a vital element of the President's overall economic strategy.

President Clinton and this Administration are committed to building the strongest, most competitive economy in the world. By doing so, we will expand job oppor-

tunities for United States workers and for their children who will be entering the work force.

We are finally facing the fact that our economy, as well as the global economy, is changing. Technology has revolutionized the world. Our economy is no longer self-contained, and the U.S. economy no longer dominates the world's economy. We compete in a global economy, where capital and technology are mobile. These trends are here to stay. The question is not whether we adapt to them, but how.

Our economic strategy—health care reform, reducing the deficit, increasing public and private investment, reinventing government, welfare reform, changes in education, worker training, investing in technology—all work in pursuit of the same objective: to build a more secure productive and competitive economy.

Our trade policy, including NAFTA, is an essential part of that strategy. The companies, farmers and workers of the United States are world-class competitors. We lead the world in everything from airplanes and computers, to wheat and soybeans. We have regained our position as the world's leading exporter. Last year U.S. trade in goods and services exceeded \$1 trillion.

Opening up new markets is the key to new job creation and economic growth. NAFTA presents an opportunity to compete and win in a vast new market: 90 million people in Mexico, in a fast growing area, hungry for U.S. goods. It is also a step to an even larger market—400 million people throughout Central and South America and the Caribbean.

The United States seeks to open markets everywhere. We seek to trade and to compete worldwide. We have nearly \$200 billion each year in two-way trade with the countries of the European Community; through APEC, we seek expanded trade with the rapidly growing nations of Asia. Japan is a major market for U.S. products, despite the major and persistent barriers that we are committed to breaking down. Completing the Uruguay Round—taking down tariff and non-tariff barriers worldwide, and writing new rules for the international trading system—remains a top priority for us.

But it is no accident that Canada is our number one trading partner, despite having a population of only 27 million, and Mexico has become our third leading trading partner, despite its historic policy of maintaining a closed economy. Shared borders and geographical proximity do matter, even in this globalized economy.

And we have a natural advantage, and a great opportunity, to expand trade and investment with Mexico, and then with the rest of Central and Latin America and the Caribbean. Many of those countries have chosen, in recent years, to cast off the controls on their economies and the shackles on their political systems. They took these steps at the urging of the United States.

Tariffs have fallen and non-tariff barriers have been reduced. Since 1989, U.S. exports to Latin America and the Caribbean increased over 50 percent and are growing at over twice the rate of exports to the rest of the world, making this region our second fastest growing market. They have become a growing market for U.S. products; 43% of Latin American imports come from the United States.

Chile, Venezuela, Argentina and many other nations are intently following the NAFTA debate. The possibility of NAFTA accession provides an incentive for further trade and investment liberalization in the region. The decision to reject NAFTA would have profound negative economic and political consequences throughout the hemisphere and for the prospects for the expansion of trade in the global trading system.

The NAFTA is an instrument for helping the United States, Mexico and Canada cooperate in meeting Asian and European competition. It will help us produce more globally competitive products.

In the new global economy, there are challenges and risks, as well as great opportunities. I am confident that American workers are up to the challenge of competing—and will reap the benefits. One reason I am so confident is that we are not going into NAFTA blindly. We do not have to speculate about the results from this change; we have gone through a 6 year trial run.

#### JOB GROWTH AND TRADE WITH MEXICO

Mexico, recognizing that its economic policies had been disastrous, has begun to lower trade and investment barriers. The results have been dramatic for the United States:

- From 1987 to 1992, we transformed a \$5.7 billion trade deficit with Mexico into a \$5.4 billion trade surplus.
- U.S. exports to Mexico increased from \$12.4 billion in 1986 to \$40.6 billion in 1992, with increases coming across the board from computers to agriculture.

- Mexico has become our third leading export market, and our second leading market for manufactured exports (\$34.5 billion) and our third largest market for agricultural products (\$3.7 billion).
- 84% of this growth in exports has been exports for Mexican consumption.
- 400,000 U.S. jobs related to exports to Mexico were created.
- 70% of all dollars spent by Mexicans on imports are spent on U.S. products.

The success of the past 7 years has occurred even though Mexican trade barriers remain far higher than ours. Bringing down the remaining barriers, which is what NAFTA does, ensures continued growth of U.S. exports to Mexico, which have been such a bright spot in our economic picture for the past 7 years.

Virtually every responsible study that has looked at the labor issue concludes that NAFTA will produce a net gain in jobs or an increase in real wages in the United States. The Administration believes that with NAFTA, an additional 200,000 jobs related to exports will be created in the U.S. by 1995. While the studies acknowledge that there will be some jobs lost in certain sectors, overall, job gains will significantly exceed job losses. The studies also agree that the jobs lost will be relatively small. This is true because Mexico's economy is only one-twentieth the size of ours, and our tariff and non-tariff barriers are already low. Mexico's productive assets, capacity and infrastructure are far below levels and standards in the United States or even Canada.

#### NAFTA AND OUR CURRENT TRADE PROBLEMS

Ironically, most of the concerns you hear in America about NAFTA are in reality problems that exist right now—problems that the NAFTA will address. For example, in the trade area, despite Mexico's recent liberalization and despite the enormous gains we have enjoyed in our bilateral trade in recent years, the playing field is still tilted against us. NAFTA will level the playing field for U.S. workers.

For one, it will eliminate Mexican performance requirements and other unfair rules in the auto sector—requirements that imports of vehicles into Mexico must be off-set two-to-one by exports of Mexican-made cars. It will eliminate the requirement for Mexican importers to secure a government permit each time they want to buy U.S. potatoes. Mexico has the right under the GATT to raise its tariffs up to 50%. If it chooses to do so, U.S. exports would not be affected because of the protections we gain under NAFTA.

Historically, Mexico has been a closed, state-controlled economy. To shield its industry and agriculture from competition, it relied on tariffs as high as 100% and a full range of non-tariff barriers, including domestic content requirements, restrictions on investment, performance requirements to keep out exports, and import licensing requirements which allowed the central government to dictate the levels of Mexico's agricultural imports. As a result, protected from competition from imports, Mexican producers were inefficient, and the Mexican economy was characterized by widespread poverty. Mexico's protectionist regime did not serve the interests of Mexico's people.

Perhaps the closed Mexican economy reflected the historical Mexican mistrust of, and antagonism toward, the United States. For whatever reason, Mexico remained largely closed to U.S. business until U.S. and Mexican law combined to produce the maquiladora program. But this program hardly resulted in an open Mexican market.

The maquiladora program created trade preferences and incentives for companies to locate assembly plants in Mexico to produce for the U.S. market. It gave products assembled in Mexico these preferences while at the same time maintaining all of Mexico's trade and investment barriers. The program thus created an artificial "export platform" in Mexico, with products assembled in maquiladora plants being required to be exported to the U.S. By 1992, there were over 2,000 maquiladora factories operating in Mexico, the overwhelming number of which were established by U.S. and Mexican corporations, employing more than 400,000 Mexican workers.

In addition, Mexico's high import barriers and Mexican rules requiring firms selling in the Mexican market to open factories in Mexico have made it difficult if not impossible for many of our companies to sell products made in the U.S. in Mexico. Non-tariff barriers—licensing, citizenship requirements, and a host of other regulations were especially hard on small businesses in the U.S., which do not have the resources to navigate through the bureaucratic maze in Mexico.

The NAFTA will transform the situation by opening Mexico's market and eliminating the distortions created by the maquiladora program. Under NAFTA, the maquiladora program is effectively eliminated, along with import projections, and existing factories will be permitted to sell in the Mexican market without restriction.

Much of the opposition to NAFTA reflects justifiable concern about the policies of the past that have disadvantaged U.S. workers. Despite Mexican progress in voluntarily opening markets, Mexican tariffs remain, on the average, 2.5 times higher than ours. By contrast, over 50% of our imports from Mexico already enter duty-free. Our average tariff on imports is only 4%.

Mexico currently has no obligation to continue recent market-opening moves on which thousands of U.S. jobs already depend. NAFTA locks in current access and expands on it.

NAFTA will require relatively few changes on our part—while requiring Mexico to sweep away decades of protectionism and overregulation. NAFTA will eliminate especially burdensome tariffs and non-tariff barriers in a number of key sectors where the U.S. is competitive vis-a-vis Mexico, such as autos and agriculture.

NAFTA lets U.S. workers compete on a level playing field with fair rules. And we are confident, in those circumstances, U.S. workers will succeed.

NAFTA will give U.S. exporters a significant preference in the rapidly expanding Mexican market over Japanese, European, and other foreign suppliers. As I have already noted, Mexico's tariffs average 10 percent. Countries other than the United States (and Canada) will continue to face Mexican duties. In addition, Mexico's current import licensing requirements on agricultural imports will disappear for the United States (and for Canada, for most products) when the NAFTA goes into effect. However, a license may still be required to bring in covered products from all other countries.

#### MAJOR FEATURES OF NAFTA

*Reduction of Mexican Tariffs.*—Under NAFTA, half of all U.S. exports to Mexico become eligible for zero Mexican tariffs when NAFTA takes effect on January 1, 1994. Those exports which will be tariff-free include some of our most competitive products, such as semiconductors and computers, machine tools, aerospace equipment, telecommunications equipment, electronic equipment, and medical devices. Within the first 5 years after NAFTA's implementation, two-thirds of U.S. industrial exports will enter Mexico duty-free. That makes U.S. products more competitive than those of our rivals.

*Removing Mexican Non-tariff Barriers.*—NAFTA reduces or eliminates numerous Mexican non-tariff barriers which today require U.S. companies to invest in Mexico or manufacture in Mexico in order to supply the Mexican market. For example, NAFTA will eliminate the requirements that force U.S. companies to purchase Mexican goods instead of U.S.-made equipment and components. Moreover, NAFTA abolishes the requirements that force our companies to export their production, usually to the United States, instead of selling directly into the Mexican market. Requirements that make U.S. companies produce in Mexico in order to sell there will also be phased out.

In addition, NAFTA includes important benefits for other key U.S. sectors:

*Opening Up Trade in Services.*—NAFTA will open new markets for the delivery of U.S. services to Mexico and Canada, where service companies are already large and growing. NAFTA will allow U.S. service firms to provide their services directly from the United States on a non-discriminatory basis, with any exceptions clearly spelled out. Furthermore, U.S. service companies will benefit from the right to establish, if they so choose, in Mexico or Canada. NAFTA opens the Mexican market to U.S. bus and trucking firms, financial service providers, and insurance and enhanced telecommunications companies, among others.

*Protecting U.S. Copyrights, Patents, and Trademarks.*—NAFTA will ensure a high level of protection under Mexican law for U.S. owners of patents, copyrights, trademarks, trade secrets, and integrated circuit designs, including strong safeguards for computer programs, pharmaceutical inventions and sound recordings. NAFTA obligates both Mexico and Canada to enforce intellectual property rights against infringement, both internally and at the border. By enhancing protection of U.S. owners of technology, and of book, film and recording rights, NAFTA will increase trade and diminish losses from counterfeiting and piracy.

U.S. motion pictures, music and sound recordings, software, book publishing and other creative industries lead the world, and are crucial to the high-wage economy that we intend to build. The copyright industries are one of the largest and fastest growing segments of the U.S. economy, employing 5% of the U.S. work force, with exports, valued conservatively, of about \$34 billion in 1990.

*The Benefit to Small Business.*—I have noted the statements of several sectors citing the benefits which will result from NAFTA; that sentiment is widely held in the business community, by businesses large and small. Indeed, small businesses stand to be among the major beneficiaries of NAFTA. Small businesses are often less able to invest the time and resources to wrestle with the tariff and licensing require-

ments which presently block the way to the Mexican market. With tariffs reduced or eliminated, and non-tariff barriers coming down, U.S. small business, which makes up a growing share of U.S. exports, will be able to sell their American-made products into the Mexican market.

#### THE SUPPLEMENTAL AGREEMENTS ON LABOR AND THE ENVIRONMENT

President Clinton endorsed NAFTA last October during the campaign in a speech at North Carolina State University, but he also set out a series of principles which he wanted to see incorporated into supplemental agreements and related initiatives.

After months of negotiations, President Clinton, Prime Minister Campbell, and President Salinas signed historic agreements on environmental and labor cooperation on September 14.

He made a promise to the American people which he has kept: that he would make sure economic growth with Mexico did not come at the expense of the environment or workers' rights, and that we would be protected from the possibility of import surges.

These Agreements are ground-breaking. The fundamental objectives of the labor and environment agreements are to work cooperatively to improve conditions for labor and the environment throughout North America and to improve national enforcement of national laws relating to labor and the environment. They commit all three nations to fair, open and equitable administrative and judicial processes for the enforcement of environmental and labor laws.

These supplemental agreements strengthen NAFTA, and represent an unprecedented commitment to cooperate on these issues in connection with a trade agreement. They ensure our ability to take action and impose sanctions if our trading partners engage in persistent patterns of failure to enforce their laws.

#### *The Supplemental Agreement on the Environment*

The Supplemental Agreement on Environmental Cooperation is the first environmental agreement negotiated specifically to accompany and build on a trade agreement. This agreement will help ensure that the economic development that will occur as a result of NAFTA takes place in a way that protects and improves the environment.

The Agreement contains important obligations regarding citizens' access to justice. These include commitments to openness and transparency in both the development of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for environmental law enforcement.

While recognizing their rights to set whatever levels of protection they deem appropriate, the three countries pledge to ensure that their laws and standards continue to provide high levels of environmental protection and to work cooperatively in enhancing protections. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process. Countries are obligated to report on the state of their environments, and to promote environmental education, scientific research, and technological development.

The Agreement creates a new Commission on Environmental Cooperation. The three countries' top environmental officials (the EPA Administrator for the United States) will comprise the Commission's Council.

A Joint Advisory Committee made up of nongovernmental organizations from all three countries will advise the Council in its deliberations.

The heart of the Commission is its Secretariat, housed in a single location and operating under the direction of an Executive Director, who will take broad direction from the Council but maintain a high degree of independence.

A major goal of the Commission is to broaden cooperative activities among the NAFTA partners. The Commission will have an aggressive and important workplan.

It will promote greater public access to information about hazardous substances (what we call "community right-to-know"). It will consider ways to promote the assessment and mitigation of transboundary environmental problems. The Commission will serve as a point of inquiry for public concerns about the NAFTA's effect on the environment, and be an avenue for NAFTA dispute settlement panels to obtain environmental expertise when faced with environmental issues.

It will consider the environmental implications of process and production methods (PPMs), or, as the agreement states, "environmental implications of products throughout their lifecycles."

Transparency is the hallmark of the NAFTA Supplemental Agreement on Environmental Cooperation, and citizens of all three countries will be free to make submissions to the commission on their concerns related to the full range of environmental issues. The Commission's secretariat will act on submissions appropriately

to develop fact-finding reports. The reports will be made public if two of three Parties concur (*i.e.*, the party that is the subject of the report cannot bar publication).

The Agreement creates a consultative process for the Council to discuss issues, including those brought to light through the public submission process and the Secretariat's fact-finding activities. Special attention is given to matters involving non-enforcement of a nation's environmental law when consultations fail to resolve the matter.

In the event that one Party considers that another Party has persistently failed to effectively enforce its environmental laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement.

The Agreement has a broad, inclusive scope. Any environmental or natural resource issue may be addressed through the work program, and any environmental concern or obligation of the agreement may be the subject of consultations between parties, from migratory and endangered species to transboundary pollution, to advising the NAFTA Commission on disputes on health restrictions. Understandably, the realm of issues subject to dispute settlement panels and possible sanctions is more circumscribed, focused on whether the Parties are effectively enforcing their environmental laws, and whether that nonenforcement is related to trade or competition among the Parties.

In short, the Agreement on Environmental Cooperation will ensure that economic growth is consistent with goals of sustainable development.

#### *Process and Production Methods*

Let me be more specific about our plans for the Commission on Environmental Cooperation in this area.

From our perspective, consideration of the issue of "process and production methods" or PPMs is a high priority element of the workplan. This involves the very complex, and often sensitive, questions of how to address any environmental effects of products due to the processes or production methods associated with them. Questions like: how was the product harvested?, how was it processed?, what effects will its consumption have on say, the environment?

These questions are of a global nature, not limited just to the context of North America. Therefore, while the Administration is committed to taking them up with our North American neighbors in the context of NAFTA and the Supplemental Agreement on Environmental Cooperation, we are also seeking a broader dialogue. Indeed, preparatory discussions are already underway in the OECD to develop a sound analysis of PPMs. We are actively involved in those discussions.

Another important step from our perspective will be to engage the GATT, beginning with a Post-Uruguay Round workprogram on the environment, which we hope will be launched at the conclusion of the Uruguay Round. This work would of necessity have to include a thorough examination of the adequacy of the GATT's substantive rules as they relate to PPMs. Broadly, our objective is to ensure that countries are able to effectively address environment objectives while not providing a means for arbitrary limits on trade. Easier said than done. This project will take time—but we will take it on in good faith, multilaterally and in the North American context.

Rejecting NAFTA will do nothing to solve environmental problems. In truth, we would lose a remarkable opportunity, first, to set a precedent for future trade agreements, and secondly, to find solutions with our two neighbors. This is why six major environmental groups, representing a majority of environmentalists in this country, announced their support in September for passage of the NAFTA.

Indeed, NAFTA has triggered new cooperation on the environment in one important area. In light of the particular needs for environmental infrastructure in the U.S. Mexico border area, we have also negotiated an agreement with Mexico for co-ordination and financing of such projects, which Assistant Secretary of the Treasury Shafer will describe in his testimony.

#### *The Supplemental Agreement on Labor*

The provisions of the NAFTA side agreement on labor constitute a truly historic linkage of trade and labor issues. This represents the first labor agreement negotiated specifically to accompany a trade agreement—the first attempt to match trade and investment rules with a more integrated framework for labor market policies—the first attempt to manage the terms of the potential change in labor markets brought about by an accord between the United States and a trading partner. This agreement will benefit workers throughout North America and help ensure that

businesses do not leave this country to take advantage of cheap labor and poorly enforced labor laws.

The North American Agreement on Labor Cooperation was developed around three fundamental principles: First, enhanced collaboration, cooperation, and information exchange among the three countries. Second, increased efforts to make explicit and highly visible each country's labor laws and their implementation. Third, increased use of effective mechanisms to improve the national enforcement of national labor laws.

As with the environmental agreement, the labor agreement contains important obligations regarding citizens' access to justice, including commitments to openness and transparency in the administration of laws and regulations and the legal processes for resolving disputes, and commitments to provide appropriate public access to administrative and judicial processes for the redress of harms and for labor law enforcement. Each country is also obligated to promote public awareness and understanding of its labor laws.

The three countries pledge to ensure that their laws and regulations provide for high labor standards and to work cooperatively in enhancing and improving those standards, while recognizing their rights to establish their own labor standards as they deem appropriate. They commit to effective enforcement of those laws, a commitment backed up by a dispute settlement process.

The labor agreement, like the environmental agreement, creates a new Commission on Labor Cooperation. The three countries' top labor officials (the Secretary of Labor for the United States) will comprise the Commission's governing Council. The Council will have a broad mandate to oversee the implementation of the agreement, establish priorities for cooperative activities on labor issues, including occupational safety and health, child labor, benefits for workers, minimum wages, industrial relations, legislation on union formation, and labor dispute resolution. It will also facilitate country to country consultations.

A Secretariat will provide technical support to the Council, and will itself report periodically to the Council on a wide range of labor issues, including labor laws and their enforcement, labor market conditions such as average wages and labor productivity, and training and adjustment programs in the three countries. The Secretariat will be headed by an Executive Director appointed by consensus of the parties for a fixed term, and the Executive Director will appoint the staff.

Each country will also establish a National Administrative Office (NAO) that will be a point of contact between other Commission entities and national governments. Each NAO will consult with the other NAOs to seek and exchange information on labor matters. Each country has a right to determine how its own NAO is staffed, and its powers and functions. The NAOs will serve as the vehicle for the citizens of each country to question and comment upon the full range of labor practices in the territories of the other parties by making submissions to their respective NAOs.

The labor agreement, like the environmental agreement, has a broad, inclusive scope. Any labor issue may be the subject of cooperative programs among the governments and addressed through Secretariat studies and background reports. Any labor concern or obligation of the agreement, including those brought to light through the public submission process and the NAO's information-gathering activities, may be the subject of consultations between Parties, among NAOs and, as necessary, among Ministers. Special attention is given to matters involving nonenforcement of a nation's labor law when consultations fail to resolve the matter.

At the request of any Party, an Evaluation Committee of Experts (ECE) will be convened to examine many problems concerning the enforcement of labor laws. ECEs, composed of independent experts, will report and make recommendations on each matter as it is treated in each of the three countries.

In the event that one Party considers that another Party has persistently failed to effectively enforce its worker health and safety, child labor, or minimum wage laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel. The dispute settlement process is the same in each agreement: it provides, in the end, for sanctions if countries have failed to correct problems of nonenforcement. Such sanctions include monetary enforcement assessments of up to \$20 million (and higher over time, since the maximum penalty is indexed to trade between the Parties) and, as a last resort if a country fails to pay the penalty, trade sanctions in the form of the withdrawal of appropriate NAFTA benefits. (Where the complained against Party is Canada, the panel's monetary enforcement assessment will be enforceable as a judgment in Canadian courts rather than through trade sanctions.)

In short, the mechanisms I've described will allow us to enjoy the fruits of the NAFTA accord and at the same time allow us to protect the basic rights of workers. Moreover, they do this in the appropriate way: by encouraging voluntary improve-

ment in standards and enforcement, and resorting to sanctions only as a last resort. But make no mistake, both the threat of sanctions and the sanctions themselves, once imposed, will produce compliance with the terms of the agreement.

#### FOREIGN POLICY IMPLICATIONS

The NAFTA deserves to be approved on its economic merits. However, the foreign policy implications of this issue should also not be minimized. Echoing comments made by Secretary of State Warren Christopher recently: "Rejection of NAFTA would seriously damage our relations with Mexico and erode our credibility with the other nations of the hemisphere and around the world. For the United States, failure to approve NAFTA would be a self-inflicted setback of historic proportions."

In my view a Congressional rejection of NAFTA would be a "shot heard around the world". It would be read across the globe as a seachange, marking a U.S. retreat from our traditionally strong advocacy for open markets and expanded trade. It would undermine our position as a negotiating partner on global trade agreements, like the Uruguay Round, which are vital to the economic renewal of the United States.

NAFTA is good economic policy and good foreign policy.

#### CONCLUSION

All Americans agree that we cannot respond to the challenge of a changing world by drifting, content to accept the result of other nations' trade and economic strategies. We need our own strategy, which builds on our strengths, faces our weaknesses, and responds to the challenges and realities around us.

We would ask the opponents of NAFTA: does walking away from the NAFTA seem like good trade and economic strategy? Can you envision Japan or the EEC—if they were in our position—rejecting a deal like this? Would either of them kick sand in the face of their third biggest, and fastest growing, trading partner? Would they opt for the status quo, the unbalanced relationship, where Mexico keeps the tariff and non-tariff barriers it chooses to keep?

Would they ever be willing, in one unthinking lurch, to throw away the friendship and progress that have characterized the past 7 years, dramatically reversing the historic pattern of mistrust and antagonism? Would they conceivably believe that it would be easier, somehow, to cooperate with Mexico on the environment, controlling drug traffic, or illegal immigration, if NAFTA were defeated?

This Administration did not negotiate the NAFTA. Moreover, Bill Clinton as a presidential candidate was sharply critical of the economic and trade policy of his predecessors. When confronted with the need to make a decision on NAFTA, he approached it very skeptically. There were powerful political reasons for opposing it.

But when he studied it, he found that NAFTA—particularly if strengthened by supplemental agreements—would be strongly in the economic interest of the United States. It was not a favor that we were doing for Mexico. It would benefit both countries, and Canada as well. It would not solve all our nation's economic problems, but it would be an important piece of the economic strategy that we were putting in place to build the world's most productive and competitive economy.

The Administration has the responsibility of convincing Congress and the country that NAFTA is in the national economic interest, and we intend to do so. I am confident that by the time Congress votes on NAFTA later this year, the country will recognize that NAFTA is a vital part of the solution to the economic challenges that face us.

Senator DODD. Thank you very much. Secretary Shafer.

#### STATEMENT OF JEFFREY SHAFER, ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF THE TREASURY

Mr. SHAFER. Thank you, Mr. Chairman, and members of the committee. It is a privilege to join my administration colleagues here today, to talk about the NAFTA, and to make the case for it.

NAFTA does offer a historic opportunity to improve our competitiveness, to create new U.S. jobs, and to begin to build a strong partnership with Latin America. And my colleagues have spoken to these issues; I simply want to associate myself with their views.

As you said, Mr. Chairman, what makes NAFTA truly historic is that it is the first trade agreement to address labor and the environment explicitly. I want to focus my remarks on our recent negotiations with Mexico to improve cooperation and increase financing for border environmental infrastructure projects.

We believe that this takes the environmental benefits of the NAFTA an important step further. Our agreement offers a new model for international cooperation, extending down to the local level, in designing, financing, and building environmental projects in order to resolve problems that have a direct impact on U.S. citizens. At the same time, our new agreement will provide loans or guarantees to help those throughout the United States and Mexico who are in communities facing NAFTA-related adjustment.

Now, the problems of raw sewage dumped in boundary waters, unsafe drinking water, and inadequate municipal waste disposal, on both sides of the border, predate NAFTA. They demand resolution. As somebody who is from the northeast and north central area of the country, I had not seen this with my own eyes until I began working on this project. But when you go down to the border, it is really striking for an American from another part of the country to see the problems that exist there. The NAFTA package offers us the opportunity to assure that these problems will be addressed.

Our new agreements would create two new institutions: One, is the U.S.-Mexican Border Environmental Cooperation Commission, the BECC. This Commission will help coordinate projects, and assemble financing packages.

The second institution will be a new U.S.-Mexican North American Development Bank, or NADBank. This institution will provide financing, at minimal budget cost to the U.S. taxpayer. It will support border environmental infrastructure projects, and contribute to NAFTA-related community adjustment and investment programs.

Now, let me talk first about the Border Environment Cooperation Commission. This new coordinating agency will help border States and communities to design and arrange financing for environmental infrastructure projects; and it will oversee their use of the funding provided.

It will give priority initially to wastewater treatment, drinking water and municipal waste projects, although its mandate is much broader in the environmental infrastructure area.

The degree of public and local participation will be unprecedented for an international agreement. Hallmarks of the agreement include a strong emphasis on State and municipal government involvement in the process of proposing and deciding upon the projects to be undertaken in the border area. The agreement ensures that the views of affected States, local communities, and members of the public will be fully taken into account.

The Commission will have a binational board of directors, with Federal, State, and local government, and public representation from both countries. It will also have a public advisory council, with members drawn from the border region. Provision is made explicitly in the agreement for public notice and comment on proposed projects.

This new Commission will not have sovereign power of its own to override the laws of either country or jurisdictions within it. It will, however, offer its services to State and local bodies, and assist them in cooperative activities. Let me illustrate, briefly, how this new entity would provide assistance. For example, if El Paso should seek to expand its wastewater treatment facility, it could approach the Border Environment Cooperation Commission for assistance. The BECC would serve as a conduit for improving coordination among the various groups and jurisdictions on both sides of the border in that area, that have an interest in the results of the project.

In particular, the BECC would encourage El Paso to include its sister city in Mexico—that is, Ciudad Juarez—in the planning process; and help to ensure that mutual concerns are addressed and that, where appropriate, economies of scale are considered.

And, once the project was ready for formal review, it would go to the advisory council for comment, and then the board of directors would have an opportunity to certify the project. In the process, each project would have to meet all local environmental requirements.

If the directors certified that the project met appropriate standards, the Commission would try to assemble a financing package, drawing on private, public, and international sources. The BECC will be charged to try to mobilize private capital to the maximum extent possible.

Let me now turn to the sources of financing. We want to maximum private sector financing for these projects, based on local user fees, to help the debt service. At the same time, we recognize that continuing funding from the Mexican and U.S. Governments will be necessary in many cases.

We estimate the total need for border environmental infrastructure projects over the next decade at somewhere in the neighborhood of \$8 billion; and see this as possibly coming from the following sources:

First, of course, is the private financing, as needed, and as possible given the financial characteristics of the projects.

We see up to \$2 billion coming from existing State and local programs, including State revolving funds, municipal revenue bonds, and the colonias program for projects on the U.S. side of the border. This is a continuation of programs and approaches to the problems, now in existence.

In addition, we anticipate about \$2 billion in new funding from the World Bank and the Inter-American Development Bank, that would be offered as loans to Mexico. This goes beyond the specific amounts so far committed by the World Bank to the border area, but, in fact, falls well short of what one might envisage ultimately, over a period of 10 years.

SENATOR DODD. Mr. Shafer, I am going to ask you to kind of move this along a little bit, because we are going to run into a time problem.

MR. SHAFER. Well, I will add, we do expect U.S. and Mexican grants; and we see about \$2 billion in loans and guarantees from the NADBANK, which I want to talk about a bit longer.

The NADBANK responds to the need for additional financing, not only for the environment, but also for communities facing difficulties due to adjustment to NAFTA. We do not expect many displacements, and few communities will face difficult adjustment. We are, nevertheless, committed to providing through the Labor Department programs, all the help we can to workers.

We are extending a similar commitment to support investment in affected communities, through the NADBANK, so that they will have the confidence of knowing that measures are in place to assist them.

The financing structure of the NADBANK would mirror that of the multilateral development banks, in order to allow us to use a minimum amount of budgetary resources in paid-in capital, and make substantially larger amounts of loans and guarantees. The total capital of the NADBANK will amount to \$3 billion. We expect it to be able to make at least \$2 billion in loans.

In order to do that, the United States and Mexico will provide equal shares—50-50—in paid-in and callable capital, with the paid-in capital, \$225 million from each country: That is \$56 million a year out of the U.S. budget for 4 years.

The bulk of the NADBANK financing will be available to support the environmental infrastructure projects that I talked about earlier. And these loans and guarantees will backstop any shortfall in private sector financing. The projects will be those certified by the Border Environment Cooperation Commission.

Ten percent of the U.S. and Mexican capital will be reserved for NAFTA-related community adjustment, and investment in the United States and Mexico. The community adjustment and investment financing on the U.S. side will be funneled through existing Government-sponsored credit programs, targeting special help for those in the U.S. communities particularly affected by NAFTA.

We expect the community adjustment program could generate at least \$200 million in financing. A special advisory and loan review committee, including representatives of low-income communities, would provide advice on the loan guidelines and community adjustment issues.

As I said, the cost to the U.S. Government for this program would be \$56 million a year over 4 years for the bank. In addition, there would be administrative costs of, perhaps, \$5 million a year for each country, for the Border Environment Cooperation Commission.

Let me close by saying that we put considerable effort into developing this agreement, in order to address these problems. We consulted closely with the border States and cities, and with Members of Congress, and also with national and local environmental groups. We believe that this agreement reflects the interests that we have heard, and that it does offer a new model for international cooperation. It is an important complement to the NAFTA agreement.

This is a window of opportunity to help Americans and Mexicans in the border region undertake joint environmental commitments. Your support for the NAFTA package is essential, to turn that opportunity into a reality, as well as to secure the wider benefits of the NAFTA. Thank you.

[The prepared statement of Mr. Shafer follows:]

#### PREPARED STATEMENT OF MR. SHAFER

##### U.S.-MEXICAN AGREEMENT ON BORDER ENVIRONMENTAL CLEANUP

It is a pleasure to join Deputy Secretary Wharton and Deputy USTR Yerxa in discussing the NAFTA agreements.

NAFTA offers a historic opportunity to improve our competitiveness, create new U.S. jobs and develop a strong partnership with Latin America.

Here's why:

- NAFTA will create the world's largest market and level a playing field sharply tilted in Mexico's favor;
- NAFTA will lock in preferential access for the United States to its first and third largest trading partners;
- NAFTA will give us a secure market that offers new opportunities for Americans to sell to Mexico;
- NAFTA will create an estimated 200,000 high wage jobs related to exports to Mexico by 1995;
- NAFTA will give us special access to the rest of Latin America—the second fastest growing region in the world—where demand for U.S. products is escalating rapidly.

What makes NAFTA truly historic is that it is the first trade agreement to address labor and the environment. I will focus my remarks on our recent negotiations with Mexico to improve cooperation and increase financing for border environmental infrastructure projects. Our agreement offers a new model for international cooperation at the local level to design, finance, and build environmental projects to resolve problems having a direct impact on U.S. citizens. It will also provide loans or guarantees to help those throughout the United States and Mexico who are in communities facing NAFTA-related adjustment.

The problems of raw sewage dumped in boundary waters, unsafe drinking water, and inadequate municipal waste disposal on both sides of the border predate NAFTA, and demand resolution. The NAFTA package offers us the opportunity to assure that they will be addressed. Failure to pass NAFTA would be a major setback for both U.S. trade opportunities generally and for environmental efforts along the border.

Our new agreements will create two new institutions. The first is a U.S.-Mexican Border Environment Cooperation Commission (BECC) to help coordinate projects and assemble financing packages. The second is a new U.S.-Mexican North American Development Bank (NADBank). It will provide financing at minimal budget cost that will support border environmental infrastructure projects and NAFTA-related community adjustment and investment programs.

##### BORDER ENVIRONMENT COOPERATION COMMISSION

The new coordinating agency will help border states and communities to design and arrange financing for environmental infrastructure projects, and oversee the use of the money. It will give priority initially to wastewater treatment, drinking water, and municipal waste projects.

The degree of public and local participation will be unprecedented in an international agreement. Hallmarks of the agreement include a strong emphasis on state and municipal government involvement in proposing, and deciding upon, environmental infrastructure projects in the border area with transboundary impacts—and decision-making procedures to ensure that the views of affected states, local communities, and members of the public will be fully taken into account. The new Commission will have a binational Board of Directors with federal, state and local government, and public representation. It will also have a public advisory council, with members drawn from the border region. Provision is made in the agreement for public notice and comment on proposed projects.

The new commission will have no sovereign power of its own. It can only offer its services to state and local bodies and assist them in cooperative activities.

Let me illustrate how this new entity would provide valuable assistance to border communities. If El Paso should seek to expand its wastewater treatment facility, it would likely approach the Border Environment Cooperation Commission for assistance. The BECC would be able to provide El Paso with access to considerable expertise in planning, designing, financing, constructing and operating the facility, and assessing its economic benefits.

In addition, the BECC would serve as a conduit for improving coordination among the various groups and jurisdictions on both sides of the border that have an interest in the results of the project. In this example, the BECC would encourage El Paso to include its sister city in Mexico, Ciudad Juarez, in the planning process to help ensure that mutual concerns are addressed and, where appropriate, economies of scale in design, construction, and operations are considered.

Once the project is ready for formal review, it will go to the Advisory Council for comment and then on to the Board of Directors for certification. Each project would have to meet local environmental requirements. The agreement provides that project proposals with transboundary effects should have an environmental assessment. The public would be able to comment on all projects prior to board consideration. If the directors certified that the project met appropriate engineering, environmental and financial standards, the commission would try to assemble a financing package from private, public and international sources. The BECC will try to mobilize private capital to the maximum extent possible.

#### SOURCES OF FINANCING

We want to maximize private sector financing for these projects, based on local user fees to help service debt, but we recognize that continued funding from the Mexican and U.S. governments will be necessary in many cases. We estimate that up to \$8 billion will be needed for border environmental infrastructure projects over the next decade. We see this coming from the following sources:

- (1) private financing, and as needed,
- (2) up to \$2 billion from existing state and local programs, including state revolving funds, municipal revenue bonds, and the colonias program for projects on the U.S. side of the border;
- (3) \$2 billion in new funding from the World Bank and Inter-American Development Bank, offered as loans to Mexico;
- (4) approximately \$1.4 billion in U.S. and Mexican grants (half from the United States);
- (5) some \$2 billion in loans or guarantees for environmental infrastructure projects from the NADBank.

#### NADBANK FINANCING

Creation of the NADBank responds to the need for additional financing—both for border environmental projects and for those anywhere in the nation in communities facing difficulties due to NAFTA, and who seek credit support in order to undertake adjustment. We do not expect many displacements as a result of NAFTA, and few communities will face difficult adjustment. We are nevertheless committed to providing all the help we can to workers who are affected by NAFTA, and are extending a similar commitment to support investment in affected communities, so that they can have the confidence of knowing measures are in place to assist them.

The financing structure of the NADBank would mirror that of the multilateral development banks: this will enable us to minimize budgetary resources by leveraging paid-in capital into substantially larger loans and guarantees through borrowing in the capital markets, backed by U.S. and Mexican callable capital.

Total capital of the NADBank will amount to \$3 billion. The United States and Mexico will provide equal shares of paid-in capital for the NADBank—\$225 million each, provided over a period of 4 years—for a total of \$450 million. Through market borrowings, we believe we can leverage the paid-in capital into \$2 billion initially and perhaps eventually up to \$3 billion in financing via loans and guarantees. Market borrowings would be limited to assure a AAA credit rating for the institution.

The paid-in amounts represent 15 percent of the total capital, which we estimate to be appropriate for this kind of activity. Callable capital would amount to \$2.55 billion; as with other multilateral development banks, we would not expect it to be called.

The NADBank would have a six-member board of directors, composed of three members from the U.S. and three from Mexico, appointed by the respective Governments. The Board would elect a Manager to conduct the business of the Bank.

To minimize any new staff requirements, we anticipate that the NADBank could negotiate a management arrangement with a multilateral development bank, possibly the Inter-American Development Bank. It could then draw on the expertise of the multilateral bank's staff for borrowing in the capital markets, loan administration, and financial evaluation of the projects.

The bulk of NADBank financing will be available to support environmental infrastructure projects. NADBank loans and guarantees will backstop any shortfall in private sector financing to make certain projects can be completed. Environmental

projects financed by NADBANK would require certification by the Border Environment Cooperation Commission.

Ten percent of the U.S. and Mexican capital would be reserved for NAFTA-related community adjustment and investment in the U.S. and Mexico. Community adjustment and investment financing on the U.S. side would be funneled through existing government sponsored credit programs targeting special help for those in U.S. communities particularly affected by NAFTA.

We expect that the program could generate at least \$200 million in community adjustment financing through loans and guarantees on the U.S. side. A special advisory and review committee, including representatives of low-income communities and other private representatives, would provide advice on loan guidelines and community adjustment issues.

The cost to the United States for generating up to \$3 billion in loans and guarantees is expected to be only \$56 million annually over 4 years. That's significant leveraging. While we expect loan charges and investments to defray administrative costs for the financing facility, some small additional costs—perhaps \$5 million a year for each country—would be incurred for operating expenses for the Border Environment Cooperation Commission. The price is a small one to help assure clean, safe water in the border area, and support for communities affected by NAFTA even outside the border area.

#### CONCLUSION

Let me close by saying that we have put considerable effort into developing an agreement with measures that address border region environmental infrastructure problems. We have consulted closely with the border states and cities, with key members of Congress, and with national and local environmental groups. We believe the agreement we have negotiated reflects their interests, and offers a new model for international cooperation at the local level. It is an important complement to the NAFTA agreement.

We have a window of opportunity to help Americans and Mexicans in the border region undertake joint environmental commitments. Your support for the NAFTA package is essential to turn that opportunity into reality.

Senator DODD. Thank you very much, Secretary Shafer. I am going to put the clock on. There is a vote at 10 a.m., and there are meetings after that. We are going to have a very difficult time here, and so we are just going to move along.

We are going to submit a lot of questions, and to our second panel, which is very important as well, we are going to try to get to you but also let you know we will probably have some written questions as well for you. There are awfully tight schedules here.

So with that we will put the clock on, and Secretary Wharton, I know you have got a meeting as well at 9:45 a.m., so let me try and quickly, in 30 or 40 seconds, lump about 4 questions together for you and then let you talk for about 4 minutes instead of listening to myself talk.

One is the Canadian election, Secretary Wharton. What is the impact? Are we going to get a renegotiation on these agreements? Obviously there are a lot of questions about what has been said or has not been said by the winning candidates in that, and I think we would like to hear from you on that.

Second, there is a lot of concern being expressed about the positive things that have been done. I happen to believe that President Salinas of Mexico is not only the best friend America has had, and I do not mean just us, but all the Americas, probably the best friend the Americas have had in any president in this hemisphere.

A lot of very positive and courageous stands have been taken, and a lot of improvements. Is there a chance we are going to find a lot of positive steps that have been set back if this is rejected? What are the implications in terms of immigration policy, drug pol-

icy, and the like, if you would care to comment on that very quickly.

And for you, Ambassador Yerxa, I would like to know about this persistent violation, the coverage of labor agreements. There is concern even amongst the supporters of NAFTA that the agreement provides for imposition of fines but only with persistent violations of occupational safety and health legislation, minimum wage, and the like, and I am interested in that.

Second, there has been a lot of discussion at the staff level about implementing language from the side agreements. Has that language been finalized? We have got to get this stuff soon, now. You know, we are getting down here, and to talk about this we have got to have some very specific language, because people raise very legitimate questions about what is contained in the legislation when we do not have final language. It is very difficult to defend what you are trying to do without that language, and so I would like to know where that all is.

Last, for you, Secretary Shafer, where is the \$56 million going to come from? What accounts? Who is going to get docked?

With that, I will stop. I think I went over a minute. I tried to get all four of them in. Secretary Wharton.

Mr. WHARTON. Yes, Mr. Chairman. On the Canadian election, as you know, President Clinton yesterday indicated in his judgment it would not have any effect on the NAFTA. Ambassador Kantor also has taken the same position, and I think if there is any further clarification, that will undoubtedly occur in the next few days, but all the indications are as far as we are concerned it is not going to have any effect.

With regard to your question on political reforms and President Salinas in Mexico, clearly we believe that there has been a recognition on the part of the Government of Mexico and the Salinas administration on the critical need to engage in significant political reforms, and they have been taking very strong actions in that regard. All of it I think has been based upon their recognition that in order to have an open market system, an effective one, they also have to have an open political system.

Clearly, I agree with your implication that if in fact NAFTA is rejected, it might very well undermine and undercut to a considerable degree those specific reforms and might result in a reversion, a reversion to some of the characteristics that antedated the move toward the NAFTA, and so I agree with you on that.

Senator DODD. Thank you very much. Ambassador Yerxa.

Ambassador YERXA. Yes, Mr. Chairman. The first question about the standard, it is important to stress here that the obligations that are being entered into by all three countries are obligations not only to provide greater transparency and openness and fairness and due process in the administration of labor and environmental laws, but also to maintain enforcement of those laws.

The basic assumption of this negotiation was that the laws themselves are quite good, the laws that are on the books in all three countries are quite good, and the problem has been one of enforcement, so the standard that was set out for dispute settlement—and I want to stress that dispute settlement is the last resort, not the

first resort under these agreements. The standard that was set out was a persistent pattern of nonenforcement.

The assumption here was that there is no way to have an international agreement that creates disputes for every single case of nonenforcement or of variations in enforcement, because the fact of the matter is that even in our system you have such principles as the principles of prosecutorial discretion and administrative discretion. You do not have full enforcement of all these laws. In many cases you have selective enforcement, but the point is, you have an enforcement scheme that maintains a high level of respect for those laws, so the standard we adopted was one of a persistent pattern.

Now, a persistent pattern can be shown by repetitive cases of nonenforcement, and we believe that that really gets at the egregious problems where a country—and I will not single out one of the three in particular—decides that it is going to essentially overlook the standards that are on the books about minimum wages or child labor.

This provides that dispute settlement mechanism which ultimately can lead to the imposition of trade sanctions by another country if a panel finds a persistent pattern, but that is the last resort. There are a number of steps in the process which are designed to encourage compliance, so we do think it is a rational form of an agreement. One which the United States can live with, because after all we do not want Canada and Mexico determining what our own regulatory enforcement patterns are.

Turning to the next point you made about implementing language, first I want to stress that we are working with the committees to ensure that all the languages are agreeable—we have draft language now that has been submitted to the committees, but I recognize that on the particular issues of the supplementals there are a couple of final provisions that have to be dealt with.

The first point to make is that this legislation will not require extensive changes in U.S. law in order to comply with the supplemental agreements. We do not need to change our environment and labor laws. What we need, first of all, is a provision that deals with conditioning entry into force of the NAFTA on the adherence by the other countries to these supplemental agreements, and second to authorize the administration, authorize the funding for the international commissions, and that sort of thing.

It is a minimal set of legislative provisions that are necessary to implement these agreements, but we will make sure that they are available. The fast track procedure calls for the cooperation between the committees and the administration before the legislation is introduced by the President, so this week we do plan to work on this language with you and your staff, Mr. Chairman.

Senator DODD. Thank you very much.

Mr. SHAFFER. Where the money will come from is, of course, a difficult and still not fully answered question with respect to the NAFTA as a whole. The question of to what extent the funding for the North American Development Bank and the Border Environment Cooperation Commission will be a part of the NAFTA pay-go provisions is still something on which we do not have a final position.

The bank will appear in the budget in the foreign operations account, and if there is additional money that is needed that is not covered in the pay-go, it will become a part of the appropriations process beginning with the 1995 budget. At this point we do not expect that there is any presumption that it will come against other claims to that budget but we will have to fight for the additional resources to cover this in that budget.

Senator DODD. Just briefly, 101 Politics, you do nothing more to assist your opponents more quickly than vague answers about where money is coming from. Get some answers on that stuff quickly. I just tell you practical stuff. If you guys cannot answer that question, you are going to be in a lot of trouble with an awful lot of people. Senator Kassebaum.

Senator KASSEBAUM. Thank you, Mr. Chairman. You asked some of my questions.

But first, I would just like to say, Secretary Wharton, I thought you did an excellent job laying out the consequences of not approving the agreement.

One point that I really had not heard stressed but which we have so often said is that we should have trade, not aid, and yet when we come right up to it, we tend to get very nervous about losing some of the advantages at least that we perceive we might be giving up.

I am absolutely amazed, to tell you the truth, at the confusion and the skepticism that still exists. I have spoken for months around Kansas. I have tried to answer what I thought were—giving reasonable answers to some of the skepticism that exists, and one thing that I think the chairman is exactly right, we really have to have some pretty definitive answers now.

I guess I would just like to explore for a moment, and one of the questions I had was Canada and the effect on that, but is—Ambassador Yerxa, with you or anyone who would care to answer at this point, and I will kind of list a couple of questions and then respond.

One of the things I hear at home from some, particularly an agriculture community, is that they want an agreement but just not this agreement. Is renegotiation an option?

Second, and this was brought up in a question of paying for it, I had heard, and you addressed this, Secretary Shafer, a bit, but that the two trinational commissions were going to cost about \$20 million, which is a higher figure than I believe you had stated, but more importantly, what I would like to ask—and you mentioned this is modeled, and you spoke to some of the coordination with the Inter-American Development Bank, but why do you believe there is a need for new facility? Why not just use the Inter-American Development Bank?

Ambassador YERXA. Could I make one point for the record first, Mr. Chairman, and that is with respect to your comment about paying for NAFTA. Director Panetta has sent to Ways and Means and Finance Committees, which are considering the revenue aspects of this, a letter yesterday fully describing the administration's proposal for covering the cost.

Now, of course, we want to stress that the long-term revenue benefits of this agreement are quite clear, but they cannot be scored by CBO because you cannot score speculative revenue gains.

Senator DODD. I understand that, but \$56 million has got to come out of a function. What function? I mean, the \$2 billion is a little more complicated, but \$56 million, you ought to know what function that is going to come of.

Mr. SHAFFER. Well, I am sorry—

Senator DODD. I do not want to interrupt.

Mr. SHAFFER. Maybe I was not clear in my answer. Some part of this may come out of the initial pay-go. The residual will be in the 150 function, and we will have to make sure—

Ambassador YERXA. Because I am very mindful of your comment that the quickest way to turn people off is not to be clear about how we are paying for it. The administration does have a proposal. We are discussing it today with the Ways and Means and Finance Committees.

I had one comment about the agricultural community observation from you, Senator Kassebaum, and that is that I cannot think of a sector that benefits more from this agreement than American agriculture. We have gotten significant changes in Mexico's agricultural regime, elimination of import licensing schemes, elimination of significant restrictions that exist today.

We already have a substantial surplus. It is, I believe, our third largest export market overall, and we see benefits in this agreement. The estimates are that it would increase agricultural exports by about \$2.5 billion. I do not think there is a realistic possibility that we get a better agreement on agriculture out of Mexico. I think that that is largely fanciful thinking by people who would like to see perfection, and in this case I think they ought to understand that perfection would be the enemy of the good.

I do not think we will get perfection. After all, we do not want to completely eliminate all of our restrictions on agriculture, and we have negotiated something with Mexico which allows us to maintain certain restrictions.

Mr. SHAFFER. If I could address the question of why not just use the IDB, the fundamental reason is that we want an institution that can lend on both sides of the border. The IDB's charter would preclude its lending into the United States and we thought if we are going to put Mexican and U.S. money into this, it ought to be controlled by Mexicans and Americans and not the whole IDB board.

On the other hand, we thought we could use the technical expertise of that organization to assist us with the administration of the program.

Senator KASSEBAUM. Well, how much is World Bank putting into environmental considerations, into Mexico now?

Mr. SHAFFER. The World Bank has committed \$1.8 billion so far for environmental projects throughout Mexico. The bulk of that will be along the border, but there is not a precise figure for that. That is looking ahead for the next several years. If you project that planning out over the next decade, I would expect that the total number will be much larger than that.

Senator KASSEBAUM. Thank you.

Senator DODD. Senator Mathews.

Senator MATHEWS. Mr. Chairman, in the interest of time, I will probably submit questions for the record. I have one question Mr.

Yerxa I would like to address to you, and if any others want to comment on it, that would be fine.

In Tennessee, we are beginning to become an automobile manufacturing State. We produced in our State this past year the two No. 1 rated automobiles in the country. We produced the Nissan in Smyrna, TN, and we produced the Saturn just west of Nashville in Spring Hill.

We see NAFTA as an opportunity to expand this market here in Tennessee. We are told—and I say we are told in reference to your testimony and others—that automobiles are one of the manufactured goods that cannot be sold in Mexico unless it is produced in Mexico. What other markets such as this are we going to open up with NAFTA and Mexico?

I happen, as I said earlier, to be a supporter of NAFTA, and I see it as creating jobs for Tennessee and for Americans. I want to be out on the forefront. I need all the information and ammunition I can get on this matter.

Ambassador YERXA. Yes, Senator Mathews. I think the point you make about elimination of their domestic content law, their investment performance requirements, their export performance requirements, is a very important one.

As we did the analysis of how different sectors are affected by this agreement, no sector came out better off and a bigger winner than the auto sector is. Mexico is one of the largest, one of the fastest growing markets for automobiles, for new automobiles, as its per capita income increases, and it is a large population. It is buying more, but the restrictions that are there today really have forced many companies to go to Mexico, produce there in order to sell in Mexico.

What the United States is required to do under this agreement is eliminate a 2½-percent duty on automobiles today. The fact of the matter is that people can already bring automobiles into the United States. This agreement does not fundamentally adversely affect that situation.

Mexico has to eliminate a 20-percent tariff. It is cut in half immediately in the first year and then phased out over the remainder of the agreement. It has to immediately begin to stage down these restrictions that right now provide an incentive for U.S. car companies to go and locate there.

So clearly, the benefits are very positive. If you compare life with NAFTA to life without NAFTA, the auto sector is a big winner with it. That is why the estimates we have for automobiles, auto parts, buses, and trucks is about a \$2 billion increase in exports.

Now, the NAFTA agreement itself will not change the trade barriers in other countries. We already have an agreement with Canada, and this essentially maintains our access to the Canadian market, but I think the important thing is to see it as a model of what we would like to do elsewhere in the world with other countries that still have these kind of investment restrictions, content requirements, et cetera, because the United States is becoming a manufacturing center for automobiles.

You know, the interesting thing here is that a couple of major European manufacturers have just announced they are going to locate assembly in the United States. Notwithstanding the fact that

we have higher wage rates than other countries, we are such a productive production center that they feel that that is the best place to locate, and for one of those manufacturers, they never located out of Germany before, so the United States is becoming a more competitive producer and getting these kinds of agreements with other countries I think will make us a significant exporter of automobiles in the future.

Senator MATHEWS. Thank you.

Senator DODD. Just as an aside on that—

Senator MATHEWS. I was just going to note that the Energy Committee's having a business meeting, and I have to go, if you will excuse me.

Senator DODD [continuing]. Just as an aside on that, the Germans have a Volkswagen plant in Mexico that still makes the Bug, or the Beetle. That car could not be imported into this country, as I understand, because their environmental standards in that car just do not meet our standards.

Senator DODD. Senator Lugar.

Senator LUGAR. Mr. Chairman, I share Senator Mathews' interests in automobiles. My State of Indiana produces both parts and assemblies, perhaps second only to Michigan in terms of activity, and we have been impressed with the fact that the labor issue, which is often brought to the fore in discussion of NAFTA, is about 7 percent of the cost of an automobile. I think this is a point that is not well understood by either those who are for or against NAFTA.

The other 93 percent of the cost of an automobile include things that we do better and less expensively than Mexico, so the automobile people have been furnishing material which is very helpful. It shows that the cost of producing a car in the United States is significantly less than producing a car in Mexico, and that side-by-side presentations, it seems to me, are very helpful.

It certainly works for the glass that goes in the windshields of automobiles. The Guardian Industries in Auburn, IN, for example, is the low-cost producer, with plants in Mexico and Canada producing the same kind of product.

My question today really looks to the future. Secretary Wharton, I wanted to ask you what are the implications of the passage of the NAFTA for hooking up with the Central American Free Trade Association, or with the agreement in the southern part of South America, the Mercosur, or the Chilean bilateral? Could you sketch what might occur if we are successful diplomatically with Central and South America within this decade?

Mr. WHARTON. Thank you very much, Senator Lugar. Clearly, the other Latin nations are most eagerly looking at what will be the next steps after NAFTA is passed.

We have made the public statement, that in the event of passage, and we look forward to it, the one nation which we are seriously considering as the next entrant would be Chile, because, as you well know, it is one of the few countries in Latin America, I believe the only one, that has had an S&P rating, for example, to give an example of how strong their economies are and how strong the reform movement has been.

The procedures that would be followed would be the same as have occurred previously with regard to NAFTA. Namely, you would have to have an entire process, not only with consultation but action by the Congress on the basis of fast track authority for each and every entrant, and it would require an action by all of the existing members.

So that there is a process that would be established for the admission of new members, and there would be a set of criteria that undoubtedly would be utilized as one looks at other possible nations for inclusion in NAFTA, but thus far we have spoken publicly and explicitly about Chile.

We have had significant indications from other nations that are anxious to get in the queue, in the line for possible consideration, and I would stress while I have the floor, Mr. Chairman, that all of these steps clearly would be designed to meet the point that I made earlier that Senator Kassebaum referred to favorably, which is the issue of trade versus aid.

There is absolutely no question that the level of resource flows and impact on an economy that occurs positively as a result of trade compared to what would occur on the basis of purely aid is vastly much, much larger.

So to the extent that we are successful in utilizing trade as a vehicle for further stimulus of significant growth and improvement in the economic well-being of the citizens of those countries, this is a much, much better course of action. And, this is one of the reasons why so many of the nations in Latin America are very anxious to see NAFTA succeed and then to get in the line.

Senator LUGAR. I am interested that you believe Chile would attempt to become a part of NAFTA rather than seek a bilateral agreement with the United States.

Mr. WHARTON. This is what they have said, yes.

Senator LUGAR. Thank you very much. Thank you, Mr. Chairman.

Senator DODD. Thank you. Senator Coverdell.

Senator COVERDELL. Go ahead and proceed, Mr. Chairman.

Senator DODD. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. I am concerned over the environmental side.

Senator DODD. Frank, would you hold up one second? Secretary Wharton is due at a meeting right about now I gather. If you had maybe a quick question for him in your series of questions, just for him and then we would let him go.

Senator MURKOWSKI. Well, I will leave it up to the panel, Mr. Chairman, as to who wants to delve into this area of the environmental side agreements.

Senator DODD. If that is your focus, Ambassador Yerxa can handle that. Thank you very much.

Mr. WHARTON. I will be happy to receive any written questions.

Senator DODD. We appreciate that.

Senator MURKOWSKI. Thank you, Mr. Secretary, and we will assume the Ambassador can respond in the areas that are of concern to myself and my colleague, Senator Stevens. And this concerns the environmental side agreement that potentially would take away authority from the States.

It is my understanding that in the transboundary issues of migration if fish and animals that would be used as justification for persons in one country to block development in areas across the border that the species might migrate, article 10, subsection 7 of the side agreement provides the council with the authority to develop recommendations regarding transboundary issues.

Would this potentially decrease my State's control over its natural resources as a consequence of, say, the porcupine caribou herd which would migrate from northern Canada into my State, and as a consequence of that migration prohibit or eliminate exploration in some of the areas that we feel have a tremendous oil and gas resource. As you know, the largest identified potential is in ANWR and Congress is going to make a decision someday on whether it will allow exploration and development.

And so my question is quite specific. Are we jeopardized in this side agreement?

Ambassador YERXA. No, Senator, I do not believe you are, and let me explain why. As we negotiated the side agreements we were very mindful of the need to maintain sovereignty over our own environmental regulations, environmental laws, and over Congress' and the State's abilities to maintain their own set of laws.

The agreement sets up what is called a council, but I want to stress that this is an intergovernmental organization. That is, the representatives of the council are the respective government officials of the three countries. And the council normally acts by consensus.

You are correct in pointing out that under article 10 the council may consider and develop recommendations regarding a number of issues, including those related to transboundary pollution, migratory species, et cetera. This would only be so if all three governments could agree on some arrangement among themselves; presumably one based on a full decision by each country to enter into such an agreement which, of course, would involve congressional procedures, congressional approval, et cetera.

So, anything in this area that involves potential future recommendations regarding those matters is a matter for intergovernmental negotiations between the three countries. This would only be the case if the United States had made a decision and if Congress had made a decision to offer that kind of an arrangement.

We do want to be able to use it as a forum to discuss some of these issues. For example, the issue of transboundary pollution may be one we want to raise with Mexico. The intergovernmental council serves as a forum for discussion, but not anything that substitutes for, replaces, or preempts either Federal or State legislation or regulation.

Senator MURKOWSKI. So, it is quite specific then in a mandate that all of the governments must agree before the action is taken, so if one government did not agree then the action would not be taken?

Ambassador YERXA. That is correct.

Senator MURKOWSKI. I see some heads out there shaking this way like no, that is not the case.

Ambassador YERXA. No, in this particular area of developing recommendations and of adopting those recommendations, the council acts by consensus among the three governments.

Senator MURKOWSKI. One more quick one, Mr. Chairman, if I may. Article 1114 of NAFTA covers degradation of domestic environmental measures. I am concerned, specifically, for an example of wetlands permitting under the Clean Water Act. Would it be considered a waiver or derogation in violation of article 1114? I am talking about wetland permits.

Ambassador YERXA. There is a provision in the NAFTA which does—and I am trying to remember the exact language of the provision. I would have to go back and review it, or maybe I could give you a more detailed answer in writing, but it does discourage countries from using the relaxation or waiver of an environmental or other regulation as a means of attracting an investor from another country.

And the idea here is not to be able to allow a country to say, if you come and build a plant here we will waive the Clean Air Act for you, or that sort of thing. I would have to look into the specifics of how that would apply in the case of a wetlands permit, but presumably those are the kinds of discretionary functions that occur under our law anyway. And in that case I do not think that that provision would prevent it. It does depend upon the type of action the government is taking.

Senator MURKOWSKI. Mr. Chairman, I have a couple of others. I recognize the time limitations. May I submit my questions in writing?

Senator DODD. Please do.

Senator MURKOWSKI. And could I have the assurance that I could have an answer, say, before Tuesday of next week?

Ambassador YERXA. We will certainly do that, Senator, yes.

Senator DODD. Thank you very much, Senator Murkowski. We are going to do that with a lot of these.

Senator MURKOWSKI. There are some specific areas here that we feel very uncomfortable, having experienced previously the realization that oftentimes the devil is in the details.

Senator DODD. Senator Pell.

The CHAIRMAN. Thank you. I have one question here, and that is some critics argue that the side agreement on labor which is designed to see that the Mexican laws are enforced does not deal with the matter of workers rights, and I was just curious if that was a justifiable criticism or not.

Ambassador YERXA. The side agreement clearly covers internationally recognized workers rights and it contains a number of different features; different aspects of how those rights could be dealt with under the agreement. Certain matters are subject to the consultation provisions of the agreement, which allow us to raise it and consult with other governments. Certain other matters, particularly related to workplace conditions, minimum wages, child labor, etc., can go all the way to dispute settlement.

I think the major criticism is that it does not subject to the same degree of dispute settlement the questions related to industrial relations. I do want to point out this agreement covers those matters, provides a forum for dealing with them which is better than what

we have today. It is not, from the standpoint of many critics, perfect because they will say that it does not go far enough, but it goes further than we have ever gone in any international agreement in providing a mechanism for dealing with those matters.

The CHAIRMAN. From the timeframe, how long would it take for a matter that is raised to be resolved?

Ambassador YERXA. There are specific timetables set forth for dispute settlement between the parties, Senator, and I would have to go back and refresh my memory on exactly what the time limits are. They are fairly tight. They require a response within a certain period of time by a party.

They then grant a right to a panel. The panel has a certain number of days to rule. I would have to go back, and maybe I can provide that for you in greater detail.

The CHAIRMAN. Please. Thank you very much.

Senator DODD. Thank you very much, both of you, for being here. And as you have heard, there will be questions we will submit to you, and if you can get back as soon as possible, Senator Murkowski said Tuesday but I would recommend even earlier than that. These questions need to be answered. We are moving along here, and it is helpful to get answers as quickly as possible.

Thank you very much. Our next panel, and I apologize to them, Bill Cunningham, legislative representative, AFL-CIO; Mr. Stewart Hudson, legislative representative, International Programs Division, National Wildlife Federation; and Mr. Cameron Duncan, coordinator of trade environmental policy, Greenpeace.

We thank all three of you for being here and I should for the record state that Bill Cunningham and I are old friends. We go back a long time to his days when he worked with Bill Cotter, my dear friend and colleague from the Connecticut delegation who represented the Hartford area. Unfortunately we find ourselves on opposite sides of the fence—one of those rare occasions, but this happens to be the case.

I apologize to all of you. We are trying to move this along as quickly as possible. We will get to your statements as soon as possible. The vote is going to start occurring. We may submit some questions or maybe get some time for some.

I want to thank my colleague from Georgia who differed on a question he had, and I appreciate it immensely. Mr. Cunningham.

#### **STATEMENT OF WILLIAM J. CUNNINGHAM, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS**

Mr. CUNNINGHAM. Mr. Chairman, we have been long-time friends, and one of the demonstrations of our friendship is we are working very hard so you will not have to have a vote on this issue. [Laughter.]

And I think we will be successful. I will submit all of my testimony, let me just make several points and several important points, I hope.

If you believe that this NAFTA agreement is an investment agreement as we do, if you look at chapters 5, 6, and 7, this is the heart of the agreement for U.S investors in multinational corporations. You know who visited you on this agreement. I would say

that it was not working men and women, it was people who represented U.S. multinational corporations and investors.

This agreement is good for U.S. multinational corporations and investors. We do not believe it is good for American workers.

I would like to just make one comment out of the written testimony, because I think it is important. We believe in trade. We believe in trade as expanding job opportunities. We do not believe the NAFTA will do that.

Workers have long learned that when market forces are left to their own, as they are in NAFTA, they cannot be expected to bring sustained equitable and social progress. Many of the major achievements of this Nation, the establishment of the minimum wage, the abolition of child labor, the development of workplace health and safety standards, family and medical leave, and collective bargaining and environmental protections were all done by governmental action and government intrusion.

As I pointed out, this agreement is an investment agreement. It is not a tariff agreement. If it were a tariff agreement, Bill Clinton has ample authority under the Trade Act of 1988 to unilaterally negotiate tariffs, and you this would not even be subject to a vote.

Let me say one other thing. Our concern is basically the quality of Mexican labor and the amount of money that they earn. In my testimony, I note that American manufacturing workers make on an average \$16 an hour. Mexican workers, who are very good, make \$2.35 an hour. And most importantly, workers in the maquiladoras along the border working in U.S.-owned subsidiaries make \$1.64 an hour, 70 cents less than people in the interior of Mexico.

The reason for this is because there is collusion by the Mexican Government and the leading trade union to repress wages. It is an official Mexican governmental policy. It is called el pacto. People who are proponents of NAFTA have to be concerned about this because Mexican workers who make either \$2.35 an hour or \$1.64 an hour are not going to be buying products made in Connecticut, Indiana, Georgia, or Rhode Island.

Let me point out in your own statement, Senator, you are factually correct for 1992. The trade surplus was \$5.5 billion. I would suggest you look at the figures for 1993. The projected trade surpluses, how we get U.S. jobs, is down between \$2 and \$3 billion, and is projected to end.

The reason for the trade surplus with Mexico right now is because of the peso which is overvalued. You know, because you are all foreign policy experts, that next year or the year after the Mexican Government election there will be tremendous pressure to reduce the value of the peso. What this means for American workers and Mexican workers is that Mexican wages will go down between 10 and 15 percent, the amount of the devaluation.

We can look at the content of what is traded with Mexico, and you have heard these arguments before. For the most part the content of what we send to Mexico are either plant and equipment to set up manufacturing facilities, or stuff that is used for final assembly for reshipment to the United States.

Let me talk about the labor side agreements very, very briefly. The labor side agreements—do you know how many days it takes

to get to the end of the labor side agreements? Senator Pell asked that question, and Rufus ducked it very nicely. It takes more than 3 years.

But more importantly, the sanctions do not go against the offending corporation in Mexico or in the United States. It goes at the first level against the Government. The Government will be assessed a penalty of \$20 million, which they then have to put in another section of the Government hopefully to enforce the laws that they were found not to do.

But the key variable here is that it is not a sanction against a company. Environmental goes the same way. The polluter does not pay. The oppressive manager does not pay. The people hiring children, the people that have unhealthy health and safety standards do not pay under this provision.

So, the essential element of U.S. law that we have done with the Clean Air Act, the minimum wage, and all the rest, focusing the level of compliance on the employer or the polluter is not extant in this labor side agreement.

We go through in our testimony all of these different issues, but let me comment on some of the things made by the Secretary from the State Department here. NAFTA is now going to become a substitute for foreign aid. I would suggest when you go home that you do not use that kind of argumentation. Most workers do not believe that their jobs are a substitute for foreign aid.

If you believe as we do, and I know most of you have committed to NAFTA now so that is not an issue, but if you believe as we do that this is an investment agreement. Therefore this agreement which is heavily favored in terms of investing in foreign countries is a big flaw.

You have to remember, and you heard it here this morning, we want to give it to Chile, we want to give it to Argentina, we want to give it to the Andean nations. So, what you are doing is you are creating a cookie cutter model that has basic flaws in it, and you are going to give it to every other country because every other country is going to want it.

Rufus said, CBI. Look, no problem with CBI. He helped draft it. I helped draft the CBI language. We exempted import-sensitive industries from CBI treatment. Those industries are the ones that are not protected in this agreement.

Senator Lugar said, salaries are only 7 percent of production in auto plants. Well, if you ask a company president or a manager of a plant if he could go to his boss and say, I can cut half of 7 percent. I can cut 3 percent off the total manufacturing process, he would be the corporate vice president in charge of manufacturing in that company because a 3-percent reduction in the cost of overall production is terribly significant.

Finally, Mr. Chairman, the labor side agreements—I think the other issue, one that you raised, candidly, we had a little bait and switch here on where the bank was coming. I called the Esteban Torres Bank, for obvious reasons. This bank is a \$56 million operation, \$56 million a year that is going to come out of budget function 150 now. But he also said it is going to be paid for by the new increased speedup of tax for small business.

This is what Leon sent up to the Hill. He said, you have to pay your taxes 1 day earlier. This can be done by big corporations who file electronically. It is very difficult for small businesses to file in 1 day, and they would be subject to some penalty. In addition, there is going to be an \$1.50 airline ticket tax. Yes, I said a ticket tax, and we hope that our Republican brothers in the House will understand that a ticket tax is a tax, and I remember all the argumentation about the Budget Act and how they did not want there to be taxes.

The real problem here is that the Federal Government is bankrupt. The only way that you can pay for things that you want, including NAFTA, is do the hard kinds of choices. You either have to tax for it under the Budget Act, or you have to cut entitlements to do it.

This administration has been scurrying around. They are going to shop this newest version. This last version, incidentally, had a half-life of 4½ hours before it came to Finance, so this one will probably have an 8-hour life. But I think that it is very important that members do insist on how this will be paid for, because this is a terribly important issue.

You will vote this afternoon again on unemployment compensation, another one of my issues which I think is a metaphor. I do trade, I do unemployment compensation.

Senator DODD. You get all the good ones, Bill.

Mr. CUNNINGHAM. The effort that we had to go through to try to find funding on this issue is very, very difficult.

In conclusion, Mr. Chairman, and I am sorry that I rambled on so long, we believe the underlying NAFTA is fatally flawed because it is basically an investment agreement that will encourage our companies to move overseas. If you can look at this agreement again, look at the chapters that encourage it.

I mean, what it really does, and you are all historians of Latin America, and you know that expropriation is a big issue for companies. This basically guarantees if you go to Mexico you can get your money back in dollars. It also says you can repatriate your capital not in pesos but in dollars.

So, what it does it says—and, more importantly, you can own a Mexican facility 100 percent. You don't have to have a Mexican partner. You can wholly own it.

We believe it is an investment agreement. We believe that it is flawed because of this, because it will encourage companies to move to Mexico to produce for both the Mexican and U.S. market. We then believe that the administration has the same goal as the Bush administration, to use this as a cookie cutter model for other things. We believe it will add to the continued and accelerate deindustrialization in the United States.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Cunningham follows:]

#### PREPARED STATEMENT OF MR. CUNNINGHAM

Mr. Chairman, on behalf of the AFL-CIO, I welcome this opportunity to present our views on the proposed North American Free Trade Agreement and its supplemental accords.

In brief, the AFL-CIO believes that the adoption of this agreement would seriously harm the U.S. economy, resulting in the loss of hundreds of thousands of American jobs and a decline in the nation's standard of living.

Last month the President of the United States, flanked by three of his predecessors, made an impassioned plea for the congressional adoption of the North American Free Trade Agreement. President Clinton's central contention, is that the debate over NAFTA is fundamentally "a debate about whether or not we will embrace change." Others have said that the supporters of NAFTA look to the future, while opponents look to the past. Nothing could be further from the truth.

The question is not whether we change or stagnate. It is whether or not our government is capable of *shaping* change so that it benefits the majority of citizens, not just powerful elites. That is, after all, the reason that democratic government was brought forth.

Trade and investment relationships must be structured so that the benefits of economic activity are spread as widely as possible. In ignoring this imperative, NAFTA represents the most recent manifestation of "trickle-down" economic theories, coupled with reliance on the "free market" as the only path to economic progress. It has not worked over the last 12 years, and it won't work now.

Workers have long since learned that when market forces are left to their own devices they cannot be expected to bring sustained, equitable economic growth and social progress. Many of the major achievements of this nation—the establishment of the minimum wage, the abolition of child labor, the development of workplace health and safety laws, collective bargaining, and environmental protections—were intended to temper and restrain some of the most brutal effects of the free market. Free markets literally need to be civilized—channeled in 2 agreed-upon directions if the economy is to serve the people.

What is at stake is not more or less trade with Mexico, but the nature and quality of that trade. As drafted, NAFTA contains no protections against a further deindustrialization of the American economy. There are no protections against the transfer of our technological edge. There are no counter-incentives to massive transfers of investment and production to Mexico. And there are no protections for Mexican workers to help ensure that they—and not just their employers—will reap benefits from increased investment.

There is no doubt that U.S.-based multinational corporations would benefit from NAFTA. The United States as a whole, however, stands to lose an enormous amount.

Ultimately, NAFTA supporters have one very simple argument: all things being equal, increased international commerce results in greater general prosperity. We do not disagree on this. But the fact of the matter is that there is very little that is now "equal" between the United States and Mexico—and, indeed, between the U.S. and all of the other nations which manage trade to their advantage.

In 1992, the average hourly compensation for American manufacturing workers was \$16.17, for Mexican manufacturing workers it was \$2.35. According to the Bureau of Labor Statistics, compensation in the U.S.-dominated maquiladora sector was even lower, averaging just \$1.64 an hour.

As a result, the Mexican consumer market is depressingly small. Mexico is a country with more than one-third our population, but only 5 percent of our buying power. Currently, Mexico has a 40 percent poverty rate, a 20 percent unemployment rate, and a gross domestic product one-twentieth of ours. Many Mexican workers—particularly maquila workers—live in cardboard shanties without electricity or running water, and drink and bathe in unfiltered streams filled with toxic runoff from nearby plants. The average Mexican family simply cannot afford to purchase the products that they make, much less contribute to American prosperity by buying goods made in the United States.

This is not demagoguery, it is fact.

Existing trade patterns underscore this reality. While it is true that we now have a small trade surplus with Mexico, there is every reason to believe that it is only temporary. Capital goods (manufacturing plants and equipment) and intermediate goods (parts used to make final products which are sent back to the U.S. market) accounted for more than 80 percent of all U.S. exports to Mexico in 1992. The vast majority of finished products from these plants flow back to the United States and Canada where—for now—workers earn enough to also be consumers. U.S. exports to Mexico of consumer and agricultural products accounted for only 19 percent of the total. Once the peso is devalued (a move rumored for next year and certainly likely within the next two years), Mexican workers will be even poorer relative to the U.S. dollar, and far less capable of buying products manufactured in the United States.

We should be clear, Mexico is not now a huge market for U.S. exports, and NAFTA will not make it so. It is a low wage production location for U.S. factories.

The current NAFTA was not designed to improve this picture, but to expand on it. As President Clinton previously acknowledged, this is really an effort to increase and protect U.S. investment in Mexico, and the agreement meets this goal with flying colors.

NAFTA guarantees the repatriation across borders of profits, dividends, and capital gains. It guarantees the convertibility of currency at market rates. It guards against the expropriation of property and it guarantees prompt compensation.

It is fascinating to compare the enforcement of these protections for business with the enforcement of the rights of working people—or more precisely, the lack of enforcement.

NAFTA spells out, in exquisite detail, the remedies—including trade actions—that can be taken by inventors or invention owners whose trademarks, copyrights or patents are exploited by those who refuse to pay a fair, negotiated price.

The men and women who make these products, however, are offered no guarantee of their right to a fair, negotiated wage or decent working conditions.

The labor supplemental agreement, rather than advancing labor rights and standards, actually represents a weakening of existing remedies available under U.S. law. The accord contains no agreement on or definition of minimal worker rights and standards. Remedies can only be sought for persistently poor enforcement of a narrow group of standards, not for gross violations of labor rights. No remedies are offered for infringements against workers' rights to free association, to collective bargaining, or to withhold labor through strikes.

The consultation and dispute resolution procedures, even for the little that is covered, is so protracted and tortuous as to make the timely resolution of disputes almost inconceivable. For covered practices, it appears that the enforcement process would take more than 1,210 days. Mexico's chief trade negotiator assured the Mexican Congress that the process was so "exceedingly long," that it is "very improbable that the stage of sanctions could be reached." We agree.

Even with its many inadequacies, the supplemental agreement on the environment is far stronger than the labor agreement. Why is the protection of workers less important than the protection of business owners or the environment? (See attached preliminary analysis of the labor side accord.)

Beyond the inadequacy of the labor supplemental agreement, the NAFTA contains dozens of specific provisions (see attached) which also would be extremely harmful to domestic employment. Weak rules of origin, inadequate safeguard procedures, inequitable rules for investment, and inequitable market access—these are but a few of the provisions that would be detrimental to U.S. workers.

In the automotive sector, NAFTA would let Mexico retain protections for its domestic producers for at least 10 years, and even longer if the Mexican government demands future commitments from the companies. It would permit the Canadian government to retain the safeguards of the Auto Pact—but the United States would have no comparable protection for either parts production or assembly.

In the apparel sector, where 80 percent of what's left of the work force is female and 20 percent is of Hispanic origin, the agreement would result in massive job dislocation without offering any prospect of reemployment.

In the land transportation sector, NAFTA would allow Mexican carriers to operate in U.S. border states in three years, and it would give Mexican carriers access to all of the United States for transporting freight and persons originating south of the border in six years. But even though Mexican truck drivers and bus drivers might work full time in the U.S., they would not be protected by our minimum wage laws.

In its chapter on "temporary entry for business persons," NAFTA departs from one of the cardinal principles of U.S. immigration policy, which is that employers can hire temporary entrants only when they show that they are unable to recruit workers here.

We have already seen the importation of nurse strike-breakers from Canada, and now we propose to add Mexican nurses to the labor pool.

Beyond the numerous problems in the agreement, implementation of NAFTA will impose huge additional costs. Lost tariff revenues are estimated to cost \$2.5 billion over the first five years of the agreement. A comprehensive adjustment assistance program to retrain dislocated workers is estimated to cost at least \$5 billion a year.

Clean-up of the environmental destruction in Mexico is estimated by the Sierra Club to cost at least \$20 billion. Additional costs will also be incurred to increase customs and immigration personnel, as well as, to provide necessary food and transportation safety inspections. All told, the additional cost of NAFTA could exceed \$30 billion. Where is the money going to come from? What programs must be cut, or new taxes put in place?

We understand the Administration is planning to raise money in new transportation related fees that would bring in about \$2 billion over five years and is proposing to allocate about \$100 million for NAFTA related unemployment benefits. Clearly, these amounts are insufficient to the task before us, and underscore the problems that will be created by this agreement.

Last year, the *Wall Street Journal* published a survey of 455 senior executives of manufacturing companies. Fifty-five percent of executives from companies with at least \$1 billion a year in sales said that, if this agreement goes through, it is very likely or somewhat likely that they shift some production to Mexico within the next few years. Twenty-four percent said that it was likely that they would use the threat of job loss to Mexico to bargain down the wages and benefits of U.S. employees. And according to a Conference Board report, during the next two years, business spending will grow almost three times faster in Mexico than in the United States.

I believe that we should take these business leaders at their word.

The AFL-CIO will enthusiastically support any new framework for trade and investment that truly protects the jobs of those who need them, that strengthens the democratic rights of workers throughout North America, that raises living standards and promotes economic development in the poorer areas of the continent, and that ensures that we will all have a healthy and safe environment.

But when NAFTA and its side accords are measured by those criteria, they are a complete failure.

Contrast our nation's performance with that of the European Community, when asked to integrate economically with less-developed Greece, Spain and Portugal.

Both the EC and the U.S. claimed to want democratization. The EC demanded and achieved it. We never tried.

Both were said to want higher living standards in the poorer partners. The EC protected workers' right to form independent unions and negotiate for higher wages, then backed it up with a development fund. We never tried.

Both were said to want to prevent "social dumping," not allowing competition based on low wages to result in lost jobs and reduced wages in the richer nations. The EC tried to raise up the poor and provided disincentives for job flight. We never tried.

"Change" is the inevitable result of this failure to confront the political and social effects of economic globalization. But it is change that is regressive.

In 1914, Henry Ford raised the wages of his workers so that they could afford to buy the cars that they made. He reasoned that if he did not, there would be too many Fords and too few consumers. At the time, the editors of the *Wall Street Journal* declared this to be an "economic crime."

In the 1930s, U.S. auto workers fought for and won the right to negotiate a decent standard of living for themselves. Like Wall Street, the Washington establishment was aghast.

By 1993, both Ford and GM had established Mexican maquiladora plants to manufacture cars for the U.S. market. Their workers achieve productivity levels close to or equal to those in U.S. and Japanese auto factories, yet their wages are a fraction of U.S. wages. Most are prevented from joining independent unions.

When American workers object to a global economy based on this type of systemic inequity, pundits and politicians accuse us of being economic criminals.

The real story is not that NAFTA has the support of five former presidents. Rather, it is the fact that NAFTA is understood and opposed by the majority of American citizens—auto workers in Illinois, truck drivers in California, maritime workers on the East Coast.

They know that no promise of worker retraining, no breakthrough in technology, no government-business partnership scheme, can bring back the jobs and the investment dollars that NAFTA will take from the U.S. under the conditions enshrined by NAFTA.

They have a right to expect more from those they elect to represent their interests. This country can and must do better.

#### ATTACHMENT 1

#### *Preliminary Analysis*

#### The NAFTA Side Accord on Labor

The AFL-CIO believes that the North American Free Trade Agreement, as drafted by the Bush administration, would be ruinous to the U.S. economy, resulting in the loss of hundreds of thousands of American jobs and a general decline in wages. One of the agreements' primary—though far from only—flaws is its complete failure

to promote the upward harmonization of living standards by linking market access with the enforcement of worker rights and labor standards.

During the 1992 presidential contest, the Clinton campaign promised to solve the problem by negotiating a side agreement with strong "dispute resolution powers" and "effective remedies." Unfortunately, the final product negotiated by the Clinton administration falls far short of its stated purpose. In fact, this labor accord actually represents a *weakening* of existing remedies available under U.S. trade law.

*1) The accord contains no agreement on, or definition of, minimal international worker rights and labor standards.*

The accord simply refers to such standards and commits each nation to promote them "in accordance with its domestic laws." In other words, if internationally-recognized rights and standards—as defined by other international treaties, International Labor Organization Conventions, the U.N. Declaration on Human Rights, U.S. law or common sense—are not adequately protected under one country's laws, this agreement offers no recourse.

*2) Remedies can only be sought for poor enforcement of labor standards, not for gross violations of worker rights.*

Freedom of association is the bedrock liberty upon which trade unions are built, as are all other civil institutions in a democratic society. It affirms the right of citizens to form and join organizations of their own choosing, hold meetings, speak and operate without fear of reprisal. This fundamental freedom is not protected by the accord. Neither are citizens' rights to bargain collectively, to withhold labor through strikes or to be free from being forced to provide labor (slavery and prison labor).

Action may only be sought if a nation "has engaged in a persistent pattern of failure to effectively enforce its labor laws with respect to *health and safety, child labor and minimum wage*." In addition, the non-enforcement must "relat[e] to a situation involving mutually recognized labor laws and related to trade."

Under existing U.S. law—the Generalized System of Preferences, the Caribbean Basin Initiative, the Overseas Private Investment Corporation, amendments to Section 301 of the 1988 Trade Act, regulations on trade with South Africa, and some foreign assistance programs—a violation of *any* of these labor rights and standards is defined as an unfair trading practice. If they are infringed, trade and investment benefits can be removed. Why is this accord weaker than what is already defined by law?

*3) The consultation and dispute resolution procedures on labor standards are so long and tortuous as to discourage complaints and petitions.*

The accord establishes a "trinational Labor Commission" with four separate bureaucratic layers: 1) a Ministerial Council, consisting of the labor ministers of each nation, 2) an International Coordinating Secretariat (ICS), which assists the Council and carries out "day-to-day" activities, 3) the National Administrative Offices (NAOs), which will act as a point of contact between nations and provide information on domestic laws, and 4) Evaluation Committees of Experts (ECEs), which will be convened on an as-needed basis to deliver technical advise and analysis.

The NAOs could "receive" and "conduct preliminary reviews" of "public communications." If the national NAO finds that there is, indeed, a problem, then there would be "consultations" between NAOs. Then the ministers would "consult." Then the ministers could ask for an ECE report. Only after consultations and a report can one of the parties request further action. Then two of the three ministers must vote to convene an arbitration panel. Then this panel must meet and write a second report. If the second panel also finds non-enforcement of labor laws, then the guilty party would be given 60 days to begin an agreed-upon plan of enforcement. If they do not, then up to 120 days after the second panel meets, it will be reconvened to decide on a plan, and perhaps to levy a fine of up to \$20 million.

In the words of Mexico's Commerce Secretary, Jaime Serra Puche, "*The time frame of the process makes it very improbable that the stage of sanctions could be reached.*" At each step in the process, it must be demonstrated that a "persistent pattern" of non-enforcement exists. What constitutes "persistent" behavior? Would it be necessary to prove 5, 25, or 2,500 unpenalized violations of basic labor standards before action could be taken?

And finally, laws which are simply inadequate would not qualify for any corrective action at all.

*4) The only enforceable remedies are ineffective.*

The offending government will be given six months to implement the enforcement plan and pay any fines. If it refuses, the complaining parties have very few options. Those that exist are asymmetrical and nonreciprocal.

If the case is against Mexico or the United States, their NAFTA benefits could be suspended through the imposition of penalty duties, quotas or investment limits based on the amount of the fine. If the case is against Canada, the Labor Commiss-

sion must file suit in the Federal Court of Canada to recover the fine or have the action plan instituted.

No matter how fair the nation of Canada and its court system may be, it is difficult to believe that the cases against it will be judged with the same impartiality as the cases it brings. It is also difficult to believe that persistent labor standards violations by one company, no matter how egregious, would be allowed to impede cross-border trade with the offending nation.

The NAFTA provisions governing intellectual property, such as patents, copyrights and trademarks, stand in stark contrast. Not only is fast action possible, but specific corporate violators can be targeted by having contraband goods stopped at the border. *Why is the labor of workers given lesser protection than the labor of inventors, businessmen and invention owners?*

#### ATTACHMENT 2

#### NAFTA—What American Workers Asked For and What They Got

In February 1993, the AFL-CIO called on the Clinton administration to renegotiate President Bush's flawed North American Free Trade Agreement, in order to protect labor rights and standards, the environment, consumer health and safety and American jobs.

How does the final NAFTA package (including the side agreements on labor, the environment and import surges) compare with what American workers asked for?

**WE ASKED FOR:** *A measure whereby infractions of labor rights or workplace standards can be enforced by trade actions. Areas to be addressed include the right to organize and bargain collectively, the establishment of strong workplace health and safety standards, appropriate minimum wage structures, the elimination of child labor, a prohibition on forced labor, and guarantees of non-discrimination in employment.*

#### DID WE GET IT? NO.

The NAFTA side accord on labor is actually *weaker* than existing U.S. trade law. Remedies can only be sought for poor enforcement of labor standards, not for gross violations of worker rights. Freedom of association—the bedrock liberty upon which unions and all other civic institutions are built—is not covered by the side accord. Neither are citizens' rights to bargain collectively, to withhold labor through strikes, to be free from workplace discrimination, or to be free from being forced to provide labor (slavery and prison labor). The few penalties are ineffective, and can only be imposed if it can be proven that there is a "persistent pattern" of poor enforcement of minimum wage, health and safety or child labor laws. In addition, the procedures to impose these weak sanctions are so long and tortuous that Mexico's Commerce Secretary was able to reassure colleagues that it was "improbable" they could ever be enforced.

**WE ASKED FOR:** *Provisions to address the existing environmental degradation of the border area, based on the "polluter pays" principle, as well as provisions to permit trade actions to address violations of environmental standards.*

#### DID WE GET IT? NO

Many corporations have circumvented U.S. environmental laws by moving to Mexico where environmental laws are not enforced. While they have prospered, they have also turned much of the border area into what Business Week calls a "2,000-mile garbage dump." The side accord on the environment does nothing to force these companies to clean up the environmental mess they have made. Instead, the U.S. government will use a bond issue, backed by U.S. taxpayers. The amount of money being considered is inadequate. There are loopholes that leave U.S. environmental laws vulnerable to challenge. And, like the side accord on labor, the environmental side accord has an enforcement process that is so long and cumbersome that it is doubtful whether any polluters will ever be called to account.

**WE ASKED FOR:** *Tougher rules of origin, so that any benefits derived from an agreement will accrue to workers and producers located in the three countries.*

#### DID WE GET IT? NO.

The AFL-CIO believes that an 80% rule of origin would be an appropriate level to assure that the benefits of the agreement accrue to workers and companies located in the three signatory nations. The final level, as negotiated by the Bush administration, is set at 60% of the transition value or 50% of the "net cost" of the product being traded. Even this 50%, however, can include administrative costs and a variety of other non-production-related costs. In other words, a product could have a substantial amount of parts made in China or Japan and still be considered "made in Mexico" for the purposes of this agreement.

**WE ASKED FOR:** *The immediate elimination of duty-drawback programs.*

**DID WE GET IT? NO.**

This is a program whereby a Korean company could import parts into Mexico or Canada, assemble them there, export the final product to the U.S., and then have Mexican or Canadian customs duties kicked-back to company headquarters in Korea. Under NAFTA, this practice would continue until the year 2001.

**WE ASKED FOR:** *The immediate elimination of export performance requirements and import-licensing schemes.*

**DID WE GET IT? NO.**

In effect, Mexico's export performance requirements mandate that some multinationals sell their Mexican-assembled goods on the American market. Under NAFTA, this program, whereby foreign-owned companies are required to export the same amount as they import, would not be phased out for 10 years. By requiring import licenses, Mexico has closed its markets to many types of American-made goods. Under NAFTA, Mexico will be allowed to continue protections on a significant list of products for up to 25 years.

**WE ASKED FOR:** *The requirement that all internationally-traded goods are marked with their country of origin.*

**DID WE GET IT? MOSTLY, YES.**

However, there are significant exemptions for transistors, semiconductors, integrated circuits and ceramic bricks, together with their respective containers. This loop-hole will make it more difficult to spot third-country circumventions of existing trade treaties.

**WE ASKED FOR:** *Safeguard provisions that protect U.S. workers against import surges.*

**DID WE GET IT? NO.**

The Clinton administration's side accord on import surges is only an agreement that the signatory nations will "monitor" and "consult." No additional safeguards were ever on the table. Under Bush's NAFTA, it would be very difficult to protect workers from an unexpected onslaught of imports. As written, the rules make any case very difficult to prove. Even if more than one industry could prove its case, only one remedy is allowed during the transition period. Thereafter, any action would require the consent of the exporting nation. No remedy can last for more than three years, down from the eight years currently allowed. And the only possible remedy is a "snap-back" to previous tariff levels. Without the possibility of a more measured response, it is improbable that any action would ever be taken.

**WE ASKED FOR:** *The continuation of federal, state and local "Buy American" laws and regulations.*

**DID WE GET IT? NO.**

Under NAFTA, federal government purchases over a certain dollar limit will be open to suppliers from other NAFTA countries, and signatories are obligated to seek to extend these provisions to states and localities. For the first time in any American trade agreement, the procurement of services, as well as goods, will be covered. It is unclear what this change will mean for the federal, state and local governments in their attempts to deliver services in ways that most benefit the community of taxpayers.

**WE ASKED FOR:** *The enforcement of strict sanitary and phytosanitary standards with no restrictions on improvements in those standards.*

**DID WE GET IT? NO.**

As written, NAFTA would allow strong American consumer-protection laws to be challenged as barriers to trade. This section of the agreement (on pesticides, plant and animal pests, and diseases that threaten food safety) promotes the equalization of standards among the parties at the local, state and national levels. Since the text recognizes international rules that, in many cases, are weaker than U.S. law, this may mean a significant harmonization downward.

**WE ASKED FOR:** *The continuation of necessary federal and state regulations concerning the provision of financial and insurance services.*

**DID WE GET IT? NO.**

In fact, NAFTA may open a pandora's box in financial services. Given the fragility of the U.S. financial sector and the catastrophic costs borne by taxpayers as a consequence of 1980s' bank and savings-and-loan deregulation schemes, we do not believe that Congress' ability to regulate financial institutions should be limited. The NAFTA, however, attempts to "disciplin[e] government measures regulating financial services." It is also unclear how Mexican and Canadian financial companies will be treated under U.S. law, and whether or not they will be subject to the same regulations as domestic institutions.

**WE ASKED FOR:** *Strict limitations on the "temporary entry" of persons to provide services, including transportation services, and the prohibition of entry*

*to affect a labor dispute. Any temporary entrant must, at a minimum, be paid and work under conditions prevailing in the host country.*

DID WE GET IT? NO.

In fact, the NAFTA greatly expands temporary entry and weakens current U.S. immigration laws. Under current procedures, employers must show that they cannot find domestic workers before hiring outside of the country. Under NAFTA there is no such limitation. NAFTA would also allow for grossly unfair competition. Mexican truck drivers, for instance, could work virtually full-time in the U.S., while being paid Mexican wages and operating under Mexican safety standards.

WE ASKED FOR: *A prohibition on transferring work or workers across borders in the event of a labor dispute, and a prohibition on trade while a labor dispute is in progress.*

DID WE GET IT? NO.

None of these issues is addressed in the NAFTA or in any of the side accords. There is certainly nothing that would prevent the work of strikers from being contracted-out across borders, and there is nothing to prevent employers from importing strikebreakers. The latter has already been done with strikebreaking nurses from Canada, now Mexico will also be a hiring ground for scabs.

WE ASKED FOR: *The ability of government to adopt standards and related measures to protect public safety or the environment.*

DID WE GET IT? NOT REALLY.

New standards can be adopted, however, as detailed above, U.S. environmental and food-safety will be subject to challenge as unfair barriers to trade. U.S. highway-safety laws will be almost impossible to enforce.

WE ASKED FOR: *Reciprocity in the treatment of foreign investment.*

DID WE GET IT? NO.

Both Canada and Mexico will be allowed to maintain regulations on a large proportion of foreign investments, while similar actions are not allowed for the U.S.

WE ASKED FOR: *Equal market access for cultural industries.*

DID WE GET IT? NO.

Canada will be allowed to maintain restrictions on products of the American entertainment industry.

WE ASKED FOR: *Safeguards for U.S. automotive production, equivalent to safeguards present in Mexico and Canada, and the continuation of existing CAFE rules.*

DID WE GET IT? NO.

Canada is allowed to maintain, and Mexico is allowed to phase-out, protections for their auto industries. American workers have no such protection. In addition, companies can choose whether Mexican auto production is considered "foreign" or "domestic" for 10 years for the purposes of CAFE (Corporate Average Fuel Economy) standards. (After 10 years all Mexican production will be considered "domestic.") This will have the effect of encouraging small-car production to be shifted to Mexico. Instead of learning to be more efficient in their production of small cars, the Big Three can just use cheaper Mexican labor and still maintain their company's U.S. environmental targets.

WE ASKED FOR: *Provisions that address the needs of import-sensitive industries, including, but not limited to, textiles and apparel, electrical and electronic, glass, tuna, meat, sugar and light-duty trucks.*

DID WE GET IT? NO.

These industries remain particularly threatened by NAFTA.

WE ASKED FOR: *A five-year review of the economic impact of an agreement that would permit parties to suspend provisions when necessary to address labor market disruptions.*

DID WE GET IT? NO.

NAFTA does contain a provision that allows any nation to withdraw with six months notice, presumably because of catastrophic ill effects. However, there is no provision that would mandate the kind of analysis that would be capable of spotting gradual job losses or the resulting downward pressure on living standards.

WE ASKED FOR: *Provision for additional debt relief for Mexico, so that it can begin investing at home to improve the standard of living of its people.*

DID WE GET IT? NO.

In the 1980s, the pressure of foreign debt sent Mexico's economy into a tailspin from which wage rates and living standards have still not recovered. With the prospect of economic integration, these pressures will also have an effect on the American economy. Despite this fact, the issue was never addressed by NAFTA negotiators.

WE ASKED FOR: *A cross-border transaction tax to serve as a major funding source for needed programs including: a substantial increase in funds for food*

*safety inspection and the customs service; sufficient funds to improve the infrastructure of the border area, including water treatment, electricity, and needed housing and schools; a significantly improved Trade Adjustment Assistance (TAA) program to provide guaranteed benefits to workers harmed by trade.*

DID WE GET IT? NO.

The idea of a cross-border tax on cross-border commerce to pay for the hidden costs of these transaction gained some support in Congress, but was rejected by both the Bush and Clinton administrations. These costs, estimated at as high as \$40 billion over 10 years, will be borne mostly by the American taxpayer. Some of Mexico's infrastructure could possibly be funded through an environmental bond-issue (backed by U.S. tax-dollars) and through a proposed regional development bank (which would probably be funded by U.S. taxpayers). Thus far, legislative proposals for TAA are totally inadequate.

*WE ASKED FOR: Legislation to eliminate the foreign tax credit and deferral and to deny trade benefits to companies that transfer production to Mexico. For workers dislocated by any such transfers, companies should be required to cover health insurance, pay severance, training and job search costs.*

DID WE GET IT? NO.

No such legislation has been proposed or even contemplated. Corporations would be free to abandon American communities, enjoy the benefits of NAFTA, and write-off the cost of transferring production on their taxes. U.S. workers would, of course, be left in the lurch.

Senator DODD. Thank you, very much. Mr. Duncan, you are opposed to the agreement. Why do we not hear from you? You are opposed, as well?

Mr. HUDSON. No, we are in favor.

Senator DODD. Well, we have a very few minutes and I appreciate that, but I think it is important that the opposition be heard, since we have heard from most of the proponents and you had very few minutes and I apologize, but we have now got bells ringing for votes.

#### STATEMENT OF CAMERON DUNCAN, GREENPEACE

Mr. DUNCAN. Thank you for inviting me this morning, Mr. Chairman. Greenpeace is submitting a detailed critique of NAFTA's environmental side accord in our written testimony this morning. I would like to first comment on the implications of the Canadian elections, on the upcoming NAFTA vote in Congress as mentioned by yourself, Mr. Chairman, briefly, and then I will summarize very briefly what our principal concerns on the side agreement are.

The results of the Canadian election 2 days ago has cast the fate of NAFTA into an entirely new light, we would claim, and underscores the need for Congress to be even more skeptical about this NAFTA. As many here will know, the liberal government has been elected in Canada with a comfortable majority of seats in the Canadian Parliament. The Liberal Party is opposed to both a Canada-U.S. free trade agreement and the NAFTA as it is presently drafted, and is committed to a policy of renegotiating both trade agreements to address several broad policy issues, including subsidies code, an antidumping code, a more effective dispute resolution mechanism, and the energy provisions of both trade agreements which Greenpeace is also very concerned about.

The Liberal Party took a position that was vigorously opposed to the implementation of the Canada-U.S. Free Trade Agreement in 1988. Since that agreement has been in place, the Liberals have reiterated their view that the Canada-U.S. agreement was not in Canada's interest. Recently, the party articulated its position on

free trade as part of its election platform in its statement on the Canada-U.S. agreement.

Senator DODD. Mr. Duncan, we have about 4 minutes for you to wrap up this thing. I apologize to you and Mr. Hudson. We are going to have to accept your testimony.

Mr. HUDSON. If I could have 30 seconds.

Senator DODD. Go ahead, Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, the astonishing results in Canada of 2 days ago that conservatives do not even have enough seats now to qualify for official status to the Canadian Parliament, these election results could not represent a more unequivocal rejection of the conservative government agenda, and there is no other initiative that is more central to that agenda than deregulated trade.

The new Liberal government in Canada has to read these results as a clear mandate to pursue an entirely different direction on international trade. What does this mean for the decision the U.S. Congress will make on November 17, if indeed this proposal comes to a vote. While the Canadian Government is considering its options, we feel that it would be reckless for the United States to proceed to ratify this NAFTA. Congress should not feel compelled to rush through a trade deal to meet an artificial schedule dictated by political administrations whose policies have been rejected.

Finally, Mr. Chairman, supporters of NAFTA would have us believe that this is a risk-free, cost-free, win-win deal for all three countries and for the environment. But there are lots of things that we know now about regional economic relations and the proposed agreement that suggest some very substantial risks for all three NAFTA countries, particularly for the environment. NAFTA is not mainly about trade, it's about politics and it is about investment.

Under NAFTA, political and economic elites in Mexico reinforced by U.S. companies with similar strategies would have little interest in increasing environmental protection and sharing power with Mexican workers. The low-wage, low-production cost strategy inherent in this NAFTA ensures that environmental degradation is likely to accompany increased investment.

Mr. Chairman, it does not have to work out this way. NAFTA would have been a truly green trade agreement if it had, one, mandated minimum environmental rights for the region; two, it had specifically grandfathered existing environmental standards in the three countries; three, if it had incorporated the polluter pays principle by making companies who benefit from NAFTA pay for its environmental costs; and four, if it had preserved the right of governments at all levels to set environmental standards above international levels. NAFTA takes none of these four steps and the environmental side agreement, in our estimation, does not solve these problems.

[The prepared statement of Mr. Duncan follows:]

#### PREPARED STATEMENT OF MR. DUNCAN

##### EXECUTIVE SUMMARY

The North American Free Trade Agreement (NAFTA) is a fundamentally anti-environment agreement, particularly in its treatment of environmental standards, energy resources, conservation issues, and agriculture. Last month, President Clinton signed the "North American Agreement on Environmental Cooperation" with Mexico and Canada as a supplemental agreement to the NAFTA, establishing a Commis-

sion for Environmental Cooperation. Greenpeace and other environmental organizations have expressed serious reservations about the viability of this approach for addressing the adverse consequences that would result from the NAFTA. We oppose this NAFTA, and we urge Congress to set it aside and to work toward a *sustainable trade and development agreement*.

The NAFTA, and its predecessor the Canada-U.S. Free Trade Agreement, tends to brand environmental regulations as non-tariff barriers to trade. Under the FTA, for example, government and industry have challenged requirements to reduce the emissions of polluting smelters and have gutted provincial government reforestation programs. The NAFTA provides no means of trade-linked enforcement of environmental, labor, health or safety standards. The agreement also exacerbates global warming, undermines strategies to achieve energy conservation, and threatens the survival of family farmers and farmworkers.

We have concluded that the Agreement promotes a brand of economic integration that benefits a small sector in each country at the cost of rising inequalities and continued degradation of the ecosystems on which we and future generations depend. We advocate rejection of NAFTA and the initiation of new negotiations to craft rules that encourage mutually beneficial trade and investment. Our countries can reduce trade barriers and remove some obstacles to investment, as long as we embrace a new framework of initiatives for our continent that steer trade and investment to promote a healthy environment, fair paying jobs, and democratic and self-reliant communities.

#### INTRODUCTION

Chairman Dodd, members of the Foreign Relations Committee. I am Cameron Duncan, trade policy coordinator for Greenpeace, an international environmental organization working for a safe and nuclear-free world, clean air and water, the protection of terrestrial and marine wildlife and their habitats, and the development of an environmentally responsive economy. We are pleased to have been invited to appear before the Committee today to offer our views on the North American Free Trade Agreement and the side accord on the environment.

As a presidential candidate in October 1992, Bill Clinton endorsed the NAFTA with the stipulation that two "side" agreements address the agreement's harmful effects on workers and the environment: "The (Bush) agreement contains no mechanism for public participation in defending challenges to American laws if we apply our environmental laws against Mexican products, or in bringing challenges to the practices of other parties" (Clinton, p. 13).

Candidate Clinton called for the establishment of an independent commission " \* \* \* with substantial powers and resources to prevent and clean up pollution. It \* \* \* would have the power to provide remedies, including money damages and the legal power to stop pollution," said Clinton. He also specifically noted that the NAFTA protected the property rights of U.S. corporations but " \* \* \* is silent with respect to labor laws and the environment."

The environmental side accord may represent the fulfillment of the President's goal, but a closer look reveals it as little more than an effort to divert citizen opposition to the NAFTA, an effort that leaves the agreement's worst elements untouched. The side accord represents a retreat from the draft proposed by the U.S. Trade Representative in May. It provides a striking contrast to the detailed protection of the property rights of American companies that Clinton noted in his 1992 speech.

Based on in-depth analysis of the side accord, outlined in this testimony, Greenpeace believes the North American Agreement on Environmental Cooperation overwhelmingly fails to address the basic environmental threats contained in the North American Free Trade Agreement.

The most serious problem with the NAAEC is its complete silence regarding the vast majority of concerns raised by citizens trying to protect the environment. Particularly disturbing is its failure to address the serious effects that deregulated trade will have on resource conservation initiatives, sustainable agricultural production, "green" procurement policies, and efforts to sustain biodiversity. At the same time, the document does little to alleviate the pressure created by the NAFTA to undermine environmental, workplace, and food safety regulation. This "environmental proviso" also offers nothing more than continued negotiation to clean up the environmental disaster zone along the U.S.-Mexican border—the product itself of two decades of free trade there. On these and many other issues, the side accord repeatedly sidesteps or avoids vital concerns while addressing others with only weak and minimal measures.

## ANALYSIS OF ENVIRONMENTAL SIDE ACCORD

Because of the environmental, health or safety problems which could result from NAFTA, we supported President Clinton's concept of a tough North American environmental commission, although no commission could repair the problems caused by NAFTA without renegotiation of parts of the Agreement. After seven months of working with the Administration to repair NAFTA's flaws, we were disappointed to see the results of the supplemental negotiations. Most of our concerns never made it onto the negotiating table. Our analysis of the major elements of the environmental side accord follows:

**1. Public Participation.**—The side agreement makes some laudable steps in opening the proceedings of the CEC to public oversight and involvement and by establishing the Public Advisory Committee. The public does have the right to request an enforcement proceeding and may submit information for inclusion in Secretariat Reports and the Annual Report.

However, the public can only petition the CEC for a limited and informal review of a dispute. Numerous convoluted steps must be taken before such a review can occur, and even then, it can be based only on such information as is publicly available. The CEC Council then holds the right to decide whether to release the review to the public or not.

The process actively discourages public participation: final reports of the Secretariat will be made public only if all members of the Council agree; most meetings of the Council may be closed to the public; and even the Public Advisory Committee will receive a "factual record" only on a  $\frac{2}{3}$  vote of the Council. And requests for information by the Council or the Secretariat and the responses received from the governments also will not be available to the public.

Finally, there is no requirement that the governments ensure that a diversity of interests are represented in their Advisory Board appointments. No role is given to the Advisory Board in proceedings of the dispute panels, as the Board is limited to non-binding recommendations on CEC administrative matters and reports.

**2. Enforcement and Trade Sanctions.**—Key to Greenpeace's recommendations for a successful enforcement mechanism was a process that would: a) respond to a wide range of enforcement problems **before** the environmental damage is done; b) provide a forum for substantive consultations to eliminate the harm; and c) provide for a quick resort to trade sanctions should the parties be unable to resolve their differences cooperatively.

The business community would dismiss as preposterous the suggestion that its interests be protected by an international commission with no direct or meaningful authority, or by a dispute resolution process with an impossibly high threshold of complaint. In fact, NAFTA rules and U.S. trade law provide swift, effective sanctions for any breach of the agreement that may prejudice the interests of business.

Not so for the environment. Defenders of the NAAEC may point to the provision that allows the CEC or a NAFTA country to refer a problem to dispute resolution and eventually sanctions, when it can show that another NAFTA country has demonstrated "a persistent pattern of failure to effectively enforce" its environmental laws. These provisions will not apply to Canada, but they are offered as giving "teeth" to the Mexican-U.S. elements of the side agreement. But the prospect of environmental trade sanctions is little more than a smokescreen. The process places an onerous burden of proof on the challenging party, followed by a dispute process so cumbersome, time-consuming, and uncertain that it is unlikely ever to be invoked, much less concluded effectively. Mexico's top trade negotiator, Jaime Serra Puche, admits as much in his comment that, "The time frame of the process makes it very improbable that the stage of sanction could be reached."<sup>1</sup>

The path to trade sanctions is further obscured by the absence of a NAFTA or NAAEC requirement that environmental protection standards be constantly upgraded. It is only when countries persistently fail to enforce their existing environmental laws that they face the threat of trade sanctions or other penalties. There is no penalty for not creating regulations in the first place. Ironically, a country wishing to minimize the risk of trade sanctions may simply avoid environmental regulation altogether.

To proceed to the stage of convoking an arbitral panel, with the possibility of fines or sanctions, requires a two-thirds vote of the Council. The U.S. representative would have to persuade his Mexican counterpart to pursue further a Canadian violation, for example. Mexico, however, from the outset of the negotiations, opposed

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<sup>1</sup> Ingrid Negrette, "Mexico Official Defends NAFTA Dispute Process" *The Journal of Commerce*, August 20, 1993, p. 3A.

the use of trade sanctions for non-enforcement of environmental laws. It is unlikely that Mexico would accede to U.S. wishes on this subject.

But even if it were possible to navigate this convoluted procedure, the final text provides an escape that is so broad it virtually guarantees that sanctions can never be invoked. In the definition of effective enforcement, the accord excuses inaction when such failure "(a) reflects a reasonable exercise of their discretion in respect of investigatory, prosecutorial, regulatory or compliance matters; or (b) results from bona fide decisions to allocate resources to enforcement in respect of other environmental matters determined to have higher priorities" (Article 45.1). In other words, a government may avoid the charge of "failure to enforce" simply by arguing that it had overriding enforcement priorities elsewhere.

#### CORPORATE PROPERTY RIGHTS PROTECTED UNDER NAFTA

The failure of the Clinton administration negotiators to secure effective enforcement of environmental protections stands in sharp contrast to the protection obtained by the Bush administration in NAFTA for the property interests of U.S. corporations. Mexico had previously required foreign investors to incorporate a certain percentage of "domestic content" in their products. NAFTA's Chapter 11 prohibits this and other mechanisms governments have used to regulate foreign investment.

Similarly, the Bush negotiators in Chapter 17 required Mexico to change its intellectual property laws (protecting patents) to conform to an international standard more acceptable to the U.S. NAFTA negotiators explicitly sought upward harmonization in the area of intellectual property rights.

The enforcement of these property rights under NAFTA provides a revealing contrast with the loophole-ridden trade sanctions provided in the environmental side accord. An individual violation of a copyright is immediately actionable. There is no need to prove a "persistent pattern" of failure to enforce the law. The offending property can be immediately confiscated and even destroyed, as can the materials used to produce it (NAFTA Article 1715.5). The penalties provided for violation of intellectual property rights are deliberately strict, "in order to create an effective deterrent to infringement." And there is no loophole allowing a government to avoid responsibility for enforcing its intellectual property laws, no matter how pressing its priorities elsewhere may be. (See Levinson, "The Labor Side Accord to the NAFTA", Economic Policy Institute, 1993, for a comparison between NAFTA's Chapter 17 and the labor side accord.)

*3. Natural Resources: No Longer An Environmental Issue.*—If the substance of the NAAEC is disappointing, its most serious flaws can be found in what it chooses to ignore entirely. By far the most serious of these omissions is its complete failure to address natural resource issues. Over the long term, it will be the NAFTA's unsustainable resource policies that cause the greatest damage to the environment.

Entirely ignored by the NAAEC are NAFTA rules that:

- provide special status to government subsidies for oil and gas projects, protecting them from the challenge as unfair trade practices, while leaving government support for energy efficiency and conservation entirely vulnerable to such attack (Article 608);
- require, with few exceptions, all NAFTA countries to provide the others with the same access to its natural resources that it allows its own citizens and domestic industry (Article 603 for energy and Article 309 for all other natural resources);
- prohibit governments from discriminating against foreign companies or markets by imposing export taxes or other charges (Articles 604 and 315); and,
- guarantee foreign access to a share (determined by trade practice) of natural resources for as long as those resources last, no matter how severe domestic shortages become (Articles 605 and 316).

Rather than address these serious impediments to sustainable resource management initiatives, NAAEC actually consolidates the destructive resource policies of the NAFTA text. This was accomplished by way of a last minute revision to the side agreement that narrowly defines "environment" to exclude natural resources management. In this way the CEC is precluded from even considering poor or destructive resource policies no matter how harmful they may be for the environment.

Thus excluded from oversight by the CEC or any other application of the side deal are the following environmental threats:

- Clear-cut harvesting of old growth forests
- Strip mining
- Large inter-basin transfers of water resources
- Destruction of coastal fisheries due to mismanagement and overfishing

- Large energy projects that destroy fragile ecosystems or native lands, such as the James Bay hydroelectric project

By very definition, the ecological disasters that these projects and policies can cause will not even be considered "environmental issues" under the NAAEC. By adding this constraint to the CEC's authority, the governments of the United States, Mexico, and Canada virtually concede that the NAFTA will promote destructive natural resource policies and take steps to ensure that the side deal does not become a vehicle for challenging them. This does not mean that resource management issues will not remain the subject of international trade disputes. In fact, the recent trend to use trade disputes to attack resource conservation initiatives (fisheries and forest conservation programs) will certainly increase under the NAFTA.

*4. Protecting Corporate Agriculture \* \* \* at the Cost of Family Farms.*—As with natural resource use, sustainable agriculture is also not considered an "environmental" issue by the NAAEC. Thus the side accord ignores the enormous environmental damage caused by the very agricultural policies and practices that the NAFTA intends to perpetuate.

Within the NAFTA, discussions about agriculture, the environment, and trade are narrowed to a debate over food safety and pesticide regulation. This narrow focus serves as another smoke screen for the real issue. Food safety, while a high-profile and important public concern, is merely a symptom of unsustainable agricultural production. The cause is the unregulated agricultural trade policies that NAFTA seeks to entrench and that will make the increased use of pesticides inevitable, accelerate the loss and erosion of farmland, displace agricultural communities, devastate rural economies and increase the energy and chemical intensity of agricultural production.

The environmental and agricultural implications of the NAFTA's provisions for intellectual property rights also fall by the wayside. Chapter 17 of the NAFTA provides protection for patents, copyrights, and trade secrets to some of the world's largest companies, substantially strengthening the monopoly control of these global corporations. In the realm of agricultural production, these rules will allow large chemical and pesticide companies to control farm production by providing patent protection for biologically engineered seed varieties. No similar property right is given to the communities that may have nurtured indigenous plant species for generations—species from which the hybrid seed was first derived. This double standard will diminish biodiversity, perpetuate chemical intensive farming, and frustrate efforts to put agricultural production on a sustainable footing.

*5. A Blow to Green Procurement.*—Government procurement policies will also suffer through the trade deal and its side accords. The United States and other countries have successfully used public purchasing policies to stimulate technological innovation in the areas of energy efficiency, recycling, and clean technology. NAFTA procurement rules constrain the ability of governments to continue such practices; by viewing green procurement requirements as barriers to trade, they undermine the ability of U.S. companies to keep pace in the global market for environmentally sound technologies and products. The environmental accord, which might have enhanced green procurement opportunities, instead does nothing to ease this constraint. (See "NAFTA: Procurement Rules and the Conflict with Green Purchasing Policies," A Greenpeace Policy Brief, Washington DC, September 1993.)

*6. Product and Production Standards.*—The side accord does not change the NAFTA provisions on sanitary and phytosanitary measures or technical standards which threaten existing state and local standards and which would have a chilling effect on the establishment of future environmental regulations. Future environmental disputes, including those dealing with food safety and technical standards, will still be heard by NAFTA dispute panels that do not include environmental experts and that do not require public participation.

*7. Finance for Border Infrastructure and Clean-up.*—The accord does not guarantee that the CEC will be funded adequately, nor does it address the enormous costs of cleaning up the pollution left by 25 years of free trade along the Mexico-U.S. border (the Sierra Club has estimated a minimum cost of \$21 billion). Here, the trade negotiators have side-stepped the polluter-pays principle for funding this effort. The prospect that general tax revenues may be used to cover the costs of border clean-up not only violates sound environmental policy, but would also force taxpayers to subsidize companies that have moved to the border area of Mexico to escape U.S. taxes, wages, and environmental laws.

*8. The CEC Cannot "Fix" NAFTA's Fundamental Flaws.*—The environmental side accord proposes to create a huge bureaucracy: a Ministerial Council; a Secretariat; a Joint Public Advisory Committee; National Advisory Committees; and Governmental Committees. But this bureaucracy would be built on very shaky foundations:

- (1) Limits placed on the term "effective enforcement" will permit the governments to argue that they are not in violation of the Agreement while non-enforcement continues.
- (2) The Secretariat has been stripped of the independent powers with which it was invested in the original U.S. negotiating draft; it has no independent investigative ability and must instead use information requested from allegedly offending Parties.
- (3) The convocation of an arbitral panel to consider a country's "persistent pattern" of failure to enforce its environmental laws has been made subject to a veto by the non-participating country.
- (4) Any country charged with a "persistent pattern of failure to effectively enforce" its own law may defend itself by arguing that it had higher priorities elsewhere. This provision alone guarantees that no enforceable action can ever be effectively pursued.

The recurrent theme of the negotiation of the environmental side accord is that, for the Clinton administration, like its predecessor the Bush administration, protection of the property rights of U.S. corporations is more important than the protection of environmental and worker rights. What the NAFTA did not tolerate in protecting corporate interests—vague standards, loopholes, aborted remedies—is embraced in the environmental side accord.

#### NAFTA WILL HARM THE ENVIRONMENT IN ALL THREE COUNTRIES

According to the Clinton administration and NAFTA's corporate supporters, economic backwardness is the main cause of environmental damage in Mexico. Although they admit that there are problems with both environmental legislation and standards, they insist that the solution is primarily technical: the budget of Mexico's environmental agency, SEDUE, is low; there are not enough trained SEDUE inspectors; and the country lacks the resources to import environmental technology.

These NAFTA supporters claim that NAFTA will solve these problems. It will provide economic growth, which will create the financial resources to improve enforcement of environmental laws and prevent further ecological degradation. Canadian and U.S. firms can provide the needed technology for resource management and conservation.

What NAFTA's corporate sponsors ignore is that it has been the "free market" economic reforms imposed on the Mexican economy in recent years that have caused a rising incidence of poverty and environmental crisis. Massive deforestation by Mexican and U.S. lumber companies has deprived the Tarahumara Indians of northern Mexico of the benefits of their forests. Pemex oil drilling has polluted the coastal fishing grounds of thousands of fishermen. This NAFTA will only deepen the social and environmental crises and strengthen the government's aversion to solve them.

In Mexico, NAFTA will benefit a small group of wealthy entrepreneurs who have a clear history of *not* passing on the benefits of new investments to workers. Furthermore, the Mexican government has an explicit strategy to compete internationally through low wages and lax enforcement of environmental and health standards.

Unless a new NAFTA explicitly embraces strict enforcement of environmental standards and labor rights and includes measures to raise Mexican wages, there will be no "trickle down," and it will be impossible to build more equitable and sustainable development anywhere on the continent. Nor, for that matter, will it be possible to achieve balanced trade within the region. Likewise, any new agreement should also address Mexico's huge foreign debt burden, which further stimulates social and environmental "dumping."

#### THE CANADIAN ELECTION: A MANDATE FOR RENEGOTIATION

The results of the Canadian election two days ago has cast the fate of NAFTA into an entirely new light, and underscores the need for Congress to be even more skeptical about this NAFTA. As many here will know, a Liberal Government has been elected in Canada with comfortable majority of seats in the Canadian Parliament (176 of 295).

The Liberal party is opposed to both the Canada-U.S. Free Trade Agreement and NAFTA, as it is presently drafted, and is committed to a policy of renegotiating both trade agreements to address several broad trade policy issues including:

- a subsidies code
- an anti-dumping code
- a more effective dispute resolution mechanism, and
- the energy provisions of both trade agreements.

The Liberal Party took a position that was vigorously opposed to the implementation of the Canada-U.S. Free Trade Agreement in 1988. Since that agreement has been in place, the Liberals have reiterated their view that CUSTA was not in Canada's interest.

Very recently the Party articulated its position on free trade as part of its election platform. In its statement on CUSTA and NAFTA, the Liberal Party was unequivocal in stating its intention to renegotiate key aspects of these trade agreements. The Party's statement was also explicit that abrogation of CUSTA, while a last resort, would be the alternative should efforts at renegotiation fail.

While legislation to implement NAFTA was passed by the Conservative Government before it called the recent election, that legislation will not come into effect unless ratified by the Cabinet of the new Canadian Government. Therefore it seems clear that NAFTA's fate in Canada now depends upon the willingness of the United States and Mexico to meet Canadian demands to reopen key areas of the trade deal.

The other factor that will bear upon the choices that may be made by the new Liberal Administration in Canada is the extent to which it has been given a mandate to repudiate the trade policies of the Mulroney Government. As observers of the Canadian political scene will know, the most remarkable aspect of the Canadian Federal election is that it represented an absolutely unprecedented rejection of the Conservative Government's agenda.

In what could be described as sea change of the Canadian political landscape, the Conservatives were reduced from holding 157 to holding only two seats in the Canadian Parliament. Yet the Conservative Party has been as much a mainstay of the Canadian political system as the Republican Party is in the United States. Now the Conservatives don't even have enough seats to qualify for official status to the Canadian Parliament.

These astonishing election results could not represent a more unequivocal rejection of the Conservative Government agenda, and there is no other initiative that is more central to that agenda than deregulated trade. The new Liberal Government has to read these results as a clear mandate to pursue an entirely different direction on international trade.

While the Canadian Government is considering its options, it would be reckless for the United States to proceed to ratify this NAFTA. Congress should not feel compelled to rush through a trade deal to meet an artificial schedule dictated by political administrations whose policies have been rejected.

#### CONCLUSION

For those voters and Members of Congress who had hoped that President Clinton would reject the anti-environment policies of the Reagan and Bush administrations, his approach to the NAFTA offers a rude awakening. By seeking to entrench environmentally harmful policies in multilateral trade agreements, supporters of the NAFTA put real environmental improvement and sustainable growth beyond the reach of successive administrations across the continent. The side accord could have been designed to provide real safeguards to the environmental health of citizens in all NAFTA countries. Instead, the lack of protection offered to the environment and labor in the current accord simply strengthens Greenpeace's opposition to the NAFTA.

Greenpeace has participated in a trinational citizens' effort to develop an alternative vision of continental economic integration. This vision is based on the principles of respect for human rights, the promotion of democracy, citizen participation in decision-making, environmental sustainability, and the reduction of economic inequalities among and within our countries. Initiatives based on these principles are outlined in a report entitled "A Just and Sustainable Trade and Development Initiative for North America," available from the Alliance for Responsible Trade, 100 Maryland Ave. NE, Box 74, Washington DC 20002.

Senator DODD. Mr. Duncan, thank you right there. I have to go to Mr. Hudson.

#### STATEMENT OF STEWART J. HUDSON, NATIONAL WILDLIFE FEDERATION

Mr. HUDSON. First of all, NAFTA is good for the environment which is why a majority of the Nation's leading conservation groups support it. Second, I am sorry Bill has taken to ridiculing Esteban Montoya for the North American Development Bank be-

cause it is also an idea supported by National Council La Raza, Southwest Voter's Research Institute, and I think a number of other House Members who are going to vote for NAFTA because it is good for environment and jobs.

Thank you.

[The prepared statement of Mr. Hudson follows:]

**PREPARED STATEMENT OF MR. HUDSON**

Good morning, Mr. Chairman. I am Stewart J. Hudson, Legislative Representative for the International Programs Division of the National Wildlife Federation. The Federation is the nation's largest private conservation organization, dedicated to the wise management of natural resources and protection of the global environment.

The National Wildlife Federation, along with a majority of the nation's leading environmental and conservation organizations, wholeheartedly supports the NAFTA and we urge Congress to approve this vitally important agreement. My organization firmly believes the environment is far better off with the NAFTA package than without it. This position is also shared by the National Audubon Society, the World Wildlife Fund, the Natural Resources Defense Council, the Environmental Defense Fund, and Conservation International.

Our decision to support the NAFTA and its environmental agreements is the result of thousands of hours of work, and intense pressure from our members and the Congress to assure that NAFTA would include a strong environmental component. It is part of our overall efforts to promote sustainable development, both globally and at a local, state, and federal level within the United States. Reforming trade agreements is just one element of these efforts, and we hope to be working with your office even more closely on issues such as foreign aid reform and the upcoming U.N. Conference on Population and Development.

While we have accomplished a great deal with our work on NAFTA, our work to promote sustainable development will not be complete unless the new foreign policy legislation, that will soon be proposed by the Administration, fully incorporates sustainable development in all its programs, from development assistance to trade enhancement. Our program to seek environmental reform of Japanese foreign aid is also an indispensable part of our approach to sustainable development.

At the beginning of the debate over NAFTA, a debate which has spanned nearly three years, trade and environmental concerns were thought to be unlinkable. As a result of our efforts, environmental concerns are clearly one of the pillars of this agreement.

Here are a few examples:

- The NAFTA itself provides for protection and *strengthening* of the highest food safety, environmental, and consumer standards. These standards are protected at the federal, state, and local level. NAFTA does not force these standards downward. When a higher standard is challenged, the standard is presumed valid, and the challenging party bears the burden of proving it a violation of the NAFTA.
- NAFTA denies countries the ability to lower pollution standards to attract business. Article 1114 of the NAFTA is clear on this point and is unprecedented in any trade or investment agreement. In addition, the Commission on Environmental Cooperation will have the power to investigate and even levy penalties when a country ignores its pollution laws. The *enforcement* of environmental laws in Mexico, and the other NAFTA countries, is one of the most successful outcomes of the supplemental negotiations.
- NAFTA increases *public participation* on trade and environmental matters. A good case in point is the North American Commission on Environmental Cooperation which will be established if NAFTA is approved. The Commission will, for the first time, allow citizens to complain about lax enforcement of environmental laws to a multilateral body that has the authority to impose fines on governments that do not meet their commitments in this area. Moreover, attached to the Commission will be a Joint Public Advisory Council, a body made up of citizen representatives from each NAFTA country.
- Finally, as part of the negotiations comprising what we call the NAFTA package, the U.S. and Mexico expect to spend approximately \$8 billion for cleanup and pollution prevention along our border with Mexico. The sources of funding will be varied. Some will come from private financing, as needed. \$2 billion will be captured from existing programs and initiatives along the bor-

der. Another \$2 billion will come from international financial institutions. The remaining \$3.5 billion will be leveraged through a Border Financing Facility with capital infusion from the U.S. and Mexico. The funds will be applied through a new Border Environmental Cooperation Commission, which will be located along the border, and fully incorporate the views of communities in that region. In other words, the decision about which projects to fund will be made with inputs from Nogales and Brownsville, not Mexico City and Washington D.C.

**The NAFTA, the Agreement on Environmental Cooperation, and the U.S.-Mexico funding agreement together represent an unprecedented opportunity for improving natural resource conservation and environmental protection in North America. The benefits of this NAFTA package stand in stark contrast to the status quo, where environmental concerns are largely ignored in commerce between nations, where lax enforcement of environmental laws goes unchecked, where citizen input into trade and environment issues is shut out, and where the atrocities found along the border persist.**

Now, given the obvious improvement that NAFTA will make in all of these areas, you may ask yourself how any environmental group could still oppose it.

The answer is simple. The environmental critics of NAFTA, those who will forever be holding out for more even at the expense of making progress in dealing with the environmental problems of concern to all of us, are out to kill trade.

The alliances they have made, and the coalitions they have formed are not interested in reforming trade. They are incapable of any position other than one that kills NAFTA and kills trade with Mexico. While these groups say "not this NAFTA," they really mean, "No NAFTA—Ever."

And, in the weeks to come, they will continue to do everything they can to distract you from the most persuasive argument in favor of NAFTA, which is the NAFTA package itself.

Consider the following allegations that these groups make about what they would like you to believe are the shortcomings of the NAFTA and its environmental accords:

### **CLAIM**

*NAFTA means that U.S. pollution laws could be weakened to match lower environmental standards.*

### **FACTS**

NAFTA articles and the environmental side agreement actually prevent this from occurring, principally in two ways. Article 906.2 of the NAFTA states that parties shall move to have compatible standards "without reducing the level of safety or of protection of \* \* \* environment." In addition, the Commission on Environmental Cooperation will work to assure a process of upward movement of pollution controls and other environmental standards as laid out in the NAFTA text, and may investigate when this does not occur. NAFTA is about pollution laws in all three countries getting *tougher*, not weaker.

### **CLAIM**

*U.S. laws to keep out unsafe imported food would be weakened to meet "trade disciplines" designed by industry.*

### **FACTS**

To characterize this scenario as an inevitability does not square with the facts. The NAFTA does not prevent any Party from setting the highest possible level of protection it deems appropriate for consumer and food safety. While standards must be scientifically based, NAFTA articles are clearly drafted to allow each Party, at the Federal, State and local level to set and apply its measures in a manner that provides for its chosen level of protection. In addition, under NAFTA rules, no standard could be overturned by an arbitral panel. Contrary to the allegation made above, the only way U.S. laws can be changed is when Congress decides this is appropriate.

### **CLAIM**

*Our laws to keep wildlife from being abused in trade remain in jeopardy.*

Prohibitions on the illegal trade in wildlife and endangered species are *explicitly* protected under NAFTA Article 104. That provision assures that the CITES Convention (controlling trade in threatened and endangered plants and animals), along with the Basel Convention (Hazardous Waste Trade), and the Montreal Protocol (which protects the ozone layer), will all take precedence over a conflicting NAFTA Article. The allegation that wildlife protection will be endangered by the NAFTA is without foundation.

### **CLAIM**

*Laws such as those to protect dolphins and turtles during harvesting of tuna and shrimp are disallowed.*

### **FACTS**

None of the U.S.'s environmental laws are disallowed under NAFTA, despite the allegations made by environmentalists who criticize trade. Conservation laws that are non-discriminatory have been successfully defended by the U.S. government for some time and, under the NAFTA, can be successfully defended from challenge. To claim that they are "disallowed" by the NAFTA is intentionally misleading. Furthermore, killing NAFTA will only return us to the harsher regime of rules set out by the General Agreement on Tariffs and Trade.

### **CLAIM**

*States would have to weaken their laws too, and they can't defend their laws when challenged.*

### **FACTS**

NAFTA does *not* require a federal government to pre-empt sub-federal laws in order to conform with the obligations of the treaty. NAFTA simply holds the federal government responsible for defending any inconsistency between a country's NAFTA obligations and a sub-federal law. NAFTA does *not* require states to weaken laws and in fact states are allowed to set standards that may, in some cases, exceed even their own federal government's standards.

Moreover, states and local governments are not the kind of defenseless victims portrayed by this allegation. In the event that a state law is challenged, the U.S. government takes responsibility for defense of legitimate sub-federal standards. The U.S. practice is also to include states as full participants in any panel proceeding that would involve their laws. As stated by the United States Trade Representative, Mickey Kantor, in recent correspondence with Representative Henry Waxman, Chairman of the Subcommittee on Health and the Environment of the House Committee on Energy and Commerce, "In the case of the NAFTA—as we have done in connection with the Canada Free Trade Agreement—we would expect state representatives to be full participants in any panel proceedings concerning their laws."

### **CLAIM**

Most of the environmental conventions to which the U.S. is a party are subordinated to the harsh provisions of NAFTA.

### **FACTS**

Most international environmental treaties to which the U.S. is party make no use of specific trade provisions or measures to achieve the goals of those agreements and as such are not in conflict with NAFTA. The conflict suggested by this allegation is imaginary. As mentioned above, three prominent international environmental treaties which *do* use trade as enforcement tools are protected under NAFTA (Article 104), which suggests that there is nothing "harsh" about NAFTA's provisions in this area.

### **CLAIM**

*With regard to our Southern border, nothing is yet clear about whether conditions will get dirtier or cleaner. We still do not have a completed agreement with Mexico. Proposed funding is inadequate, polluters are not taxed to clean up the mess they make and nothing is assured. Fundamental problems, such as toxic dumping, are being ignored.*

## FACTS

As a vital part of the NAFTA package, Mexico and the U.S. will devote over \$8 billion in financial resources from a variety of sources into addressing a range of problems along the U.S.-Mexico border. According to numerous studies, including one by NWF and the Environmental Defense Fund, this figure is *adequate* for priority items such as wastewater and sewage treatment, as well as municipal solid waste.

The funding will be carried out through a newly formed Border Environmental Cooperation Commission which will rely on a decision-making mechanism made up of local governments and citizen representation.

Toxic clean-up in the U.S. is presently pursued through the Superfund program, and EPA intends to dedicate more resources and attention to the border sites. Mexico is still behind in this area but has progressed, especially through citizen involvement and cooperation with EPA, in identifying priority sites for clean-up.

## CLAIM

*The principal focus of the side agreement was enforcement of domestic environmental laws. A brave effort may have been made here, but the text is riddled with loop-holes and the process is so tortuous that it is unlikely ever to be applied. Sanctions can be dodged whenever anyone wants to claim they had different priorities.*

## FACTS

This allegation reveals a comprehensive misreading of the goals of the environmental side-agreement. The agreement is not intended to facilitate slap-happy application of trade sanctions. It is structured to examine openly *any* environmental issue in North America, but subject such investigations to tighter criteria as the possibility of sanctions becomes greater. These are checks and balances necessary for an effective Commission. In addition, this claim continues to ignore the fact that the responsibilities and powers granted to this Commission are unprecedented in its connection of trade and environment issues.

Sanctions can be avoided, but only when a country can demonstrate to an arbitral panel that their failure to enforce effectively their environmental law "results from *bona fide* decisions to allocate resources to enforcement in respect of other environmental matters determined to have higher priorities."

## CLAIM

*With regard to public participation, the public is still excluded from the dispute resolution processes; everything is still secret. The crabbed provisions for public input to the new Commission for Environmental Cooperation are basically a diversion into a side show.*

## FACTS

NAFTA dispute resolution rules are a clear improvement over those of the GATT. In a NAFTA trade dispute relating to environment, environmental expertise is much easier to summon than under GATT rules, and public release of dispute panel final reports is allowed. Moreover, the U.S. continues to be the strongest advocate for openness in trade proceedings and as a result, NAFTA's dispute resolution process is likely to be opened further.

Provisions for public input into the Commission are not "crabbed." In fact, public input is strengthened by the trilateral agreement. For instance, citizens may come to the Commission with a complaint about an environmental problem in their country. There is no requirement to go through their own government. Moreover, public input is institutionalized through the Joint Public Advisory Committee which will create fifteen spaces for NGO representatives on the Commission.

These representatives will have input into the Commission's budget, reports, and activities. Given that environmental groups have advocated for this aspect of the Commission, it is likely that they will make effective use of their place in the Commission. In other words, this is not a "side-show."

## CLAIM

*This [NAFTA] is a threat to American environmental sovereignty. It is also a major step toward ending democracy in this country.*

## FACTS

environmental sovereignty is far from threatened. In fact, it is safe to say that given current international trade rules, NAFTA strengthens our ability to maintain control over our environmental laws.

The environmental hold-outs on NAFTA are assuming a grave responsibility. If they are successful in convincing you to kill NAFTA, then they are honor-bound to go to the border and tell the residents of the *colonias* why they eliminated \$8 billion in funds for addressing the environmental horrors that afflict that area. They are honor-bound to explain to Mexican citizens why they felt it necessary to trash NAFTA provisions improving their voice in environmental issues. Finally, they can explain to environmentalists why environmental issues will no longer be considered with credibility in future trade agreements.

However, all of these sad scenarios, which harm the United States at least as much as Canada and Mexico, need not unfold if members of Congress understand, as we do, that the environment is far better off with the NAFTA than without it. Killing the NAFTA package only perpetuates the status quo, an ironic outcome for those who point to environmental problems which NAFTA did not create, and instead will help to fix.

This is why local groups like the Tennessee Conservation League, the Florida Wildlife Federation, the Minnesota Conservation Federation, the Washington Wildlife Federation, and the Audubon Society of Central Arkansas, and several other state and local environmental groups have taken the time to carefully examine the NAFTA and its environmental agreement and now strongly endorse the NAFTA.

This is why twenty of the leading conservation groups in Mexico say that, "NAFTA and its environmental side agreement will be beneficial for our country's environment."

**And this is why Congress should support the NAFTA.**

We sincerely urge you to make this choice, because its good for our environment and for our country.

Senator DODD. My apologies to all three of you here. You see that we are under the gun here with an hour. We have almost gone 2 hours. We will get back to you with written questions.

Your full statements and supporting documents will be included in the record. We will follow up with you on these things to make it a part of the record. And we thank you as well for being here this morning.

The subcommittee will stand adjourned.

[Whereupon, at 10:10 a.m., the committee adjourned, to reconvene subject to the call of the Chair.]

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